

Ans: FROTH

THE TRYALS

O F

<i>Thomas Walcot,</i>	}	{	<i>John Rous</i>
<i>William Hone,</i>			<i>&</i>
<i>William Lord Russell,</i>			<i>William Blagg.</i>

FOR
HIGH - TREASON,

For Conspiring

The Death of the King,

And raising a

REBELLION

IN THIS

KINGDOM:

At the *Sessions-House* in the *Old-Baily London*, on a Commission of Oyer and Terminer held there for the City of London and County of Middlesex, on *Thursday, Friday and Saturday, July 12, 13, and 14. 1683.*

L O N D O N,
Printed for *Richard Royston, Benjamin Took* and *Charles Mearn.* M D C L X X X I I I.

I Appoint RICHARD ROYSTON, BENJAMIN TOOK
and CHARLES MEARN to Print the TRYALS
of THOMAS WALCOT, WILLIAM HONE, WIL-
LIAM LORD RUSSEL, JOHN ROUS and WILLIAM
BLAGE, at the Sessions in the *Old-Baily*; and that no
other do presume to Print the same.

Will. Prichard, Mayor.

The Tryals, &c.

The Tryal of Captain Thomas Walcot.

Tuesday July 12. 1683. at the Sessions-House in the Old Baily, London: The Court being met, and Proclamation made for Attendance, the Proceedings were as follow.

Thomas Walcot being set to the Bar, and after having held up his Hand, the Indictment was read as follows.

London. The Jurors for our Sovereign Lord the King, upon their Oaths Present, That Thomas Walcot, late of London Gent. as a false Traitor against the Most Illustrious and excellent Prince, our Sovereign Lord Charles the second, by the Grace of God, of England, Scotland, France and Ireland King, his natural Lord, not having the fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and seduced by the instigation of the Devil, and the true Duty, and natural Obedience, which True and Faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King, do bear, and of right ought to bear, wholly withdrawing, and with his whole strength intending the Peace and common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move and stir up, and the Government of our said Lord the King within this Kingdom of England to subvert, and our said Lord the King from his Title, Honour and Kingly Name of the Imperial Crown of this his Kingdom of England to put down and deprive, and our said Lord the King to Death and final Destruction to bring and put, the second day of March, in the year of the Reign of our Sovereign Lord Charles the Second, King of England, &c. the Five and Thirtieth, and divers other days and times, as well before as after, at the Parish of S. Michael Bassishaw, in the Ward of Bassishaw London aforesaid, Maliciously and Traiterously with divers other Traytors, to the Jurors aforesaid unknown, did Conspire, Compass, Imagine and Intend our said Lord the King, his Supreme Lord, not only of his Kingly State, Title, Power and Government of this his Kingdom of England to deprive and throw down, but also our said Lord the King to kill and to Death to bring and put, and the ancient Government of this his Kingdom of England to change, alter and wholly to subvert, and a miserable slaughter amongst the Subjects of our said Lord the King through his whole Kingdom of England to cause and procure, and Insurrection and Rebellion against our said Lord the King to move, and stir up within this Kingdom of England; And to fulfil and perfect the said most horrible Treasons, and traitorous Compassings, Imaginations and Purposes aforesaid, the said Thomas Walcot as a false Traytor, then and there, and divers other days and times, as well before as after, maliciously, traiterously and advisedly did assemble, meet together and consult with the aforesaid other Traytors, to the Jurors aforesaid unknown, and with them did treat of and for the executing and perfecting their Treasons, Compassings, Imaginations and Purposes aforesaid; and that the said Thomas Walcot as a false Traytor, Maliciously, Traiterously and Advisedly then and there, and divers other days and times, as well before as after, did take upon himself, and to the aforesaid other Traytors did promise to be aiding and assisting in the execution of the Treasons and traitorous Compassings, Imaginations and Purposes aforesaid; and in providing Armour and Armed Men to fulfil and perfect the said Treasons and traitorous Compassings, Imaginations and Purposes aforesaid: And the said most wicked Treasons, and traitorous Compassings, Imaginations and Purposes aforesaid to fulfil and bring to pass, he the said Thomas Walcot as a false Traytor, Maliciously, Traiterously and Advisedly, then and there did procure and prepare Arms, to wit, Blunderbusses, Carbines and Pistols, against the duty of his Allegiance, against the Peace of our Sovereign Lord the King, his Crown and Dignity, and against the form of the Statutes in that Case made and provided, &c.

The Tryal of Captain Thomas Walcot.

Cl. of Cr. What saist thou, *Thomas Walcot*, Art thou Guilty of this High Treason, whereof thou standest Indicted, or Not Guilty?

Capt. Walcot. Not Guilty.

Cl. of Cr. *Culprit* how wilt thou be tryed?

Capt. Walcot. By God and my Countrey.

Cl. of Cr. God send thee a good Deliverance.

Then were William Hone, John Rouse and William Blague arraign'd, who pleaded Not Guilty to their Indictments, and the Court adjourn'd till the Afternoon. When Thomas Walcot being again brought to the Bar, after some exceptions, the following Jury was impannel'd.

<i>Nicholas Charlton, Christopher Pitts, Robert Beddingsfield, John Pelling, William Winbury, Thomas Seaton,</i>	}	<i>William Rutland, Thomas Short, Theophilus Man, John Genes, John Short, Thomas Nicholas.</i>
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Crier. Oyes, If any one can inform my Lords the Kings Justices, &c.

L. C. J. Mr. Sheriffs, This is an extraordinary case, it is reasonable the Evidence should be well heard: I require you both to keep the Court quiet. — *Mr. Tanner,* swear the Kings Evidence one at a time.

Clerk. Thomas Walcot, Hold up thy hand: you of the Jury look upon the Prisoner and hearken to his Charge: He stands indicted by the name of *Thomas Walcot* Gent. *prout* in the Indictment before *mutatis mutandis*. Upon this Indictment he hath been arraigned, and thereunto pleaded Not Guilty, and for his Tryal put himself upon his Countrey, which Countrey you are. Your charge is to enquire, &c.

Mr. North. May it please your Lordship, and you that are sworn, the Prisoner stands charged, That he being a false Traytor to the King, and intending to raise War and Rebellion against the King, and to bring his Majesty to an untimely death, did on the second of *March* in the Five and Thirtieth year of the King, at the Parish of *S. Michael Bassishaw*, meet with other Traytors like himself, and there conspired to bring these Treasons to effect; and accordingly promised to be aiding and assisting to provide Arms for it; and did actually provide several Arms, as Carbines, Blunderbusses and Pistols for the perpetrating this Treason. This is the Charge, to which he says he is Not Guilty. We will call our Witnesses and prove it, and then you are to find it.

Mr. Att. Gen. Gentlemen of the Jury, the Prisoner at the Bar is accused of the highest of Crimes, High Treason against his Sovereign Lord, in compassing the Murder of the King, in raising Rebellion within this Kingdom, to the overthrowing of the best constituted, and the most excellent Government in the World. Gentlemen, he does not stand alone; and therefore he is charged in the Indictment with a Conspiracy with many others: I am heartily sorry to say there are many; indeed there is hardly any Kingdom or Nation, wherein there are not discontented persons, whose narrow Fortunes or malevolent Spirits render them uneasy in that condition God Almighty hath put them; but to find men that pretend to be Christians, or to have any thing of Virtue, and under the best of Governments, that indeed is a matter of wonder; and indeed it casts so great a stain and reproach upon the Protestant Name, that it is not to be wiped off, but by the severest Justice of the Kingdom. Gentlemen, this design was for a general Rising, and at the same time to assassinate the King and the Duke of York: this is the design which the whole course of our Evidence will open to you, and lies so naked, that I hope no *Englishman* that lives, but will see through these men that have made such a noise and tumult in these latter days. This design to assassinate the King, and the Rising, was designed to be in *October* last, upon the King's Return from *New-Market*; and at that time there was a Noble Lord, that is gone now to his own place, as will appear by the Evidence, that furnished them with considerable sums of money, for the providing Men and Arms for the assassinating the King at that time, but the Assassins were not then ready, as God appointed they should not be ready; and so at that time they were disappointed. Then the general Rising was put off till Queen *Elizabeth's* day, which will open your eyes to see upon what grounds those Tumultuous Meetings were encouraged in the City, to the terror of all honest men: but that Rising was also disappointed, because some of the Conspirators were not

not ready with their Men in the Countrey: and then, Gentlemen, though it was prest on by the person I mentioned, he then thought it high time to leave these Confederates to themselves. Gentlemen, after this we shall trace them in their several Meetings and Consultations: for there was a time that they struggled with themselves, which should be effected first, whether they should first kill the King and the Duke; or whether they should first rise, and so prosecute him in an open Rebellion, and destroy him that way. And the course of our evidence will shew how ingenious these men were; for it appears, there were men of great ingenuity and courage, as appears by the Prisoner at the Bar, and they would discourse of these matters in Phrases, that common persons should not understand them. —

Capt. Walcor. I do not understand you.

Mr. Att. Gen. I speak as loud as I can. At their meetings, for cutting off the King, that was the executing of a Bargain and Sale; and a short conveyance, to come to their end. The raising of a War, that was under the notion, and so to be discours'd of, of executing a Lease and Release; to work both upon the possession and upon the reversion: and under these mystical terms they discours'd of all these subjects, when they were in publick places. *Capt. Walcor.* I do not hear.

Mr. Att. Gen. You will hear the Witnesses, and that will concern you more. Then Gentlemen, in these several meetings they contrived to allot every man his part, some were to provide Arms, others were to provide men, to do the execution, which was last resolv'd upon to be at the Rye, upon the Kings last return from New-Market. Gentlemen, in all these parts, which I hope to prove, the Prisoner will appear to have a principal part in them all: In all the Consultations and Advising for the raising men, wherein he was to be a principal Commander, according to the skill he hath; but for the Assassination at the Rye, Rumbold was to conduct the Men hired for that purpose. Gentlemen, accordingly the time was appointed for his Majesty to come, and the Assassins to meet him there: but it pleas'd God, that that was disappointed by a miraculous Fire, for so all Englishmen may call it: and whereas they were to go down on Friday to Rumbold's House, and the King to come up on Saturday, the Fire brought him to Town on Tuesday: but notwithstanding this great Providence to divert them, Rumbold and others of the Confederates, resolv'd to go on with it still; and several places were appointed, and several Officers appointed to view those places, either between Hampton-Court and Windsor, or else to do it at the Play-house, or upon the Kings passage from the Play-house by Bedford-wall at Covent-Garden; but if these should fail, they were resolv'd to do it at the Bull-feast: Gentlemen, they went further; they provided Arms; which very Arms opportunely fell into our hands: we seiz'd those very Arms that were bought for that purpose to kill the King and the Duke. We shall go through with it; I will name you the material places of their meetings, that so you may understand the Witnesses; the Green-Dragon Tavern on Snow-hill, the Salvation Tavern in Lombard-street, the Angel Tavern near the Exchange, and Mr. West's Chamber in the Middle Temple; these were some of the principal places, though they had several other places, wherein all these matters were consult'd and transacted. They had prepar'd a new Model of Government, and they were for overturning all, as all these Politicians do; though they had a most excellent Government, yet they had a better in their own brains; or at least, their share would be greater in it, as all Rebels have a prospect of. Gentlemen, for the other parts, we shall have less occasion to give evidence of now; for every one had their particular part; some for the great design of the rising, some for the killing of the King, whereof that Gentleman, the Prisoner, was one; and there were other parts assign'd to others, for taking and surprizing the Tower. We will call our Witnesses, and prove all that we have open'd, and make it as clear to you as the Sun shines: such a prodigious Villany, nothing but a firebrand from Hell could kindle in mens minds, to kill the best of Kings, and to destroy the best Frame of Government. Gentlemen, I do not question your Justice, but that this man shall pay what is due to the Justice of the Kingdom.

Mr. S. Jeffreys. My Lord, I only desire to give an account of the method of our Evidence.

Capt. Walcor. My Lord, I desire I may have the favour of Pen and Ink.

L. C. J. That you shall have.

Mr. S. Jeffreys. My Lord, and you Gentlemen of the Jury, Mr. Attorney hath already given you an account of the design that was to be put in execution by a parcel of evil men, whereof the Prisoner at the Bar we charge to be one. We shall not de-

tain you longer with opening the matter, but beg the favour of the Court, that we may acquaint you a little with the method we intend to follow in calling our Evidence for the King against the Prisoner at the Bar. In the first place, my Lord, we will call our Witnesses, to give your Lordship and the Jury satisfaction, That there was a design in general, and that that design was first intended to be a general Rising over all the Kingdom; in which design the Prisoner at the Bar had a very considerable share, and was looked upon to be a very proper and fit person for the managery of that part of the design: For other meetings, and at what places, *Mr. Attorney* hath already opened to you. We will then come to more particular agreements that were between them, in order to the carrying on this admirable good work, as it hath been truly stated, for the destruction of the best and most merciful of Kings, and for the destruction of the best of Religions, the Religion of the Church of *England*. I take notice of it, because all men may know, The most of these persons, nay, all of them, concerned in this hellish Conspiracy, were Dissenters from the Church of *England*.

And the better to effect this horrid villany (I am sure I want words, and so does any man else, to express the baseness of these crimes) the better to effect this thing, the way it was to be done, was by taking off the King, and by taking off his Brother too. At length after several debates and some proposals made between these persons, they came to a determination and an actual resolution, To take off the King and his Royal Brother. My Lord, we will prove generally, that this was the intent of the design or the Plot in general. My Lord, we will then give you an account, That they entered into several consultations for a new model and frame of Government; for they intended to set up the people, and they had even fixt a certain superiority, and resolved as all people of their principles have a mind, according to their several inclinations to fix the power in the people; Gentlemen, an old Tenent, that brought the Kings Father to that untimely and horrid end, by fixing the power in the people. These Gentlemen had a mind to insinuate and ingage the people, by fixing the power in them, and saying that publick Proclamations were to be made. And after this horrid and barbarous murder, intended upon the King and the Duke, there were Declarations to be made in the names of such and such Lords, and the Associating Members of the last House of Commons, these were the persons thought fit in whose hands the power of the whole Kingdom should be lodged. Gentlemen, after we have given you an account of the several meetings, then we will come to the Prisoner at the Bar, and prove against him, That he had not only an hand in the first part of the plot, about the rising, but he was also to be one of those villains that were to murder the King: I cannot express my self in more moderate Terms, and I am sure no man can blame me that hears the proof. Gentlemen, when we have thus given you this Evidence, I hope we shall satisfy the Court, and all mankind, That persons that have been thus guilty, under pretence of Religion, or under any other pretence whatsoever, are fit objects of the severity of humane Laws. If we prove against the Prisoner at the Bar, That he had an hand in this horrid Conspiracy, I make no doubt but you will shew your selves to be *Englishmen*, loyal men, and overtake all men that thirst after the Kings blood.

Mr. Sol. Gen. Gentlemen, we will call our Witnesses, and as no man can doubt, but the murder of the King, that vile design, would have been seconded by a power to back that horrid villany; so we shall shew you, That this Gentleman was concerned in both parts, in the immediate assassination of the King, and the raising of Arms. We need not go about to give you an history of the thing any other way than in applying it to this person, for there is no part of this Conspiracy he can clear himself from, and all the evidence that speak of this design, speak of this man as a chief Actor in it. *M. Att. Gen.* Call Col. *Rumsey*. (who was sworn.)

Mr. Sol. Gen. Col. *Rumsey*, Pray give my Lord and the Jury an account what you know of the Prisoner at the Bar, whether he were concerned, either in relation to the murder of the King, or the raising Arms.

L. C. J. Mr. *Rumsey*, raise your voice so audibly that you may be heard.

Col. Rumsey. The first meeting I had with this Gentleman, was at Mr. *Wess's* Chamber.

Mr. Att. Gen. Before you begin to tell of your meeting, give an account of any rising that you have heard of.

Col. Rumsey. Sir, about the latter end of *October*, or the beginning of *November*, I was with my Lord *Shaftsbury* late at Night, and he told me, That the Duke of *Monmouth*,

month, my Lord *Ruffel*, my Lord *Grey* and Sir *Thomas Armstrong*, were at one Mr. *Shepherd's* house near *Lumbard street*. He desired me to go to know what they had done about the raising Arms at *Taunton*. I did go, and Mr. *Shepherd* carried me up to them; and they told me, That Mr. *Trenchard* had failed them about the men, and they could proceed no farther at that time.

L. C. J. What *Shepherd* was this?

Col. Rumsey. Mr. *Shepherd* the Merchant near *Lumbard-street*, one Mr. *Thomas Shepherd*. And so I came to my Lord the next day and told him of it; and then he made his preparation to be gone for *Holland*.

L. C. J. What discourse had you with my Lord *Shaftsbury* thereupon? What did he say? What made you believe he made preparation to be gone?

Col. Rumsey. My Lord, he said, there was no dependance upon those Gentlemen that met, and he would leave *England*. After that a Fortnight or three Weeks, there was a meeting one day at Mr. *West's* Chamber, and there was Mr. *West*, and Mr. *Goodenough*, and Mr. *Wade*, and some body else there was, but I cannot remember his Name, Captain *Walcot* was in *Holland* then. There it was proposed, nothing was to be done by a general Rising; but there was no surer way than to take off the King and the Duke; and that to that intent and purpose, they could not carry it on without Mr. *Ferguson*; and so he was writ for into *Holland*; and he came out of *Holland* upon that Letter, and Captain *Walcot* with him. After Mr. *Ferguson's* coming back from *Holland*, there was very suddenly a meeting again, and then it was concluded, that nothing was to be effected without taking off the K. and D. or to that purpose. Mr. *Ferguson* was not at that Meeting. There were two or three Meetings before Captain *Walcot* was there, to find out men, and they could not find out a number of men, without which Mr. *Rumbold* would not undertake it. So about three or four meetings after Captain *Walcot* came, and he was resolved at last to join in the matter; but he would not have an hand in attacking the Coach, but he would command a Party that should charge the Guards.

L. C. J. What did he say?

Col. Rumsey. He would not meddle with the King in the Coach, but he would command a Party, that should charge the Guards that came along with him.

Mr. Att. Gen. After what manner was it settled that it should be done?

Col. Rumsey. There were several Parties: one small Party was to have killed the Postillion, another to kill the Horses, and Mr. *Rumbold* with a certain number to seize the Coach, and Capt. *Walcot* the Guards.

Mr. Att. Gen. Where was it to be done? *Col. Rumsey*. At Mr. *Rumbold's* house.

L. C. J. Where is that? *Col. Rumsey*. Near *Hodfildon*.

L. C. J. For what purpose was Mr. *Rumbold* and those other men to attack the Coach? *Col. Rumsey*. To murder the King and the Duke.

L. C. J. How was it designed to be done, by Pistol, or how?

Col. Rumsey. By Blunderbusses, and if they mist, then Swords.

Mr. Att. Gen. Did they give any Directions about preparing Arms?

Col. Rumsey. When that time fail'd, after the Fire fell out at *New-Market*.

L. C. J. When was this to be done?

Col. Rumsey. When the King returned from *New-Market*.

L. C. J. About what time? *Col. Rumsey*. The Saturday before *Easter*.

L. C. J. I don't ask you the day; but was it when the King was last at *New-Market*, or before? *Col. Rumsey*. Last at *New-Market*.

L. C. J. When he was last at *New-Market*, in his return from thence?

Col. Rumsey. In his return from thence.

L. C. J. Whereabouts? *Col. Rumsey*. At *Fumbold's* house which is near *Hodfildon*.

L. C. J. In *Hertsfordshire*? *Col. Rumsey*. In *Hertsfordshire*.

L. C. J. And you say, those methods were chalked out by them, that *Rumbold* and some others were to attack the Coach, others to kill the Postillion, others to kill the Horses; and this Gentleman with a commanded Party was to fall upon the Guards? You say this? *Col. Rumsey*. Yes, my Lord.

Capt. Walcot. I would beg leave, my Lord —

L. C. J. Stay, Captain *Walcot*, you shall have leave to ask him any thing by and by; but you must first let the Kings Council have done with him.

Mr. Att. Gen. I would ask you, what you know of a design at any other time.

Col. Rumsey. I do know nothing, I heard by Mr. *West*, but I knew nothing before.

L. C. J. Mr. *Rumsey*, About what time was this resolution taken up, as near as you can?

tan? I ask neither the Day nor the Week, but about what Month?

Col. Rumsey. The beginning of it was in *February*.

L. C. J. Last *February*?

Col. Rumsey. Last *February*. *Mr. Ferguson* and *Capt. Walcot* came to this Town upon *Ash-wednesday*.

Mr. S. Jeffreys. What other meetings were you at, Sir?

Col. Rumsey. This was the first, when the Prisoner at the Bar came in. The first time was at *Mr. West's* Chamber, where he came: There it was considered and debated.

Mr. S. Jeffreys. Very well, you say that was the first time *Capt. Walcot* came in.

Col. Rumsey. It was at *Mr. West's* Chamber: This was before the King came from *New-Market*, that they were to do this, and the number of men could not be got ready; so there were several meetings afterward at *Mr. West's* Chamber, to consult whether they could raise the number they resolved upon; and there were Notes brought by *Mr. Goodenough* and *Mr. Rumbold* of many names, I cannot say who else brought notes of the mens names, to see that they might not be deceived in the number: and at that time, *Capt. Walcot* was there, and did undertake to go to *Mr. Rumbold's* house, and I think did go down to the very place.

L. C. J. Look you, Sir, was there any number of men insisted upon for doing this villany?

Col. Rumsey. *Capt. Rumbold* did insist upon 50. men.

L. C. J. But *Capt. Walcot*, how many was he to have?

Col. Rumsey. It was not divided to a perfect number.

Mr. S. Jeffreys. What other meetings were you at with Captain *Walcot*?

Col. Rumsey. I was at the Salutation with him, and the green Dragon with him.

Mr. S. Jeffreys. Where is that?

Col. Rumsey. The green Dragon is upon *Snow-Hill*.

Mr. S. Jeffreys. Where is the Salutation?

Col. Rumsey. In *Lumbarde-street*.

Mr. S. Jeffreys. Now tell what discourses you had there.

Col. Rumsey. That was about dividing the City into 20 parts, to see how many men could be raised out of every part, and they were to be divided into fifteenths, and every man to lead a fifteenth, that they might not be at a loss.

Mr. Att. Gen. Who was intrusted with this to do it?

Col. Rumsey. *Mr. Goodenough*, *Mr. West*, and *Mr. Wade*.

Mr. Att. Gen. What account did they give of what they had done?

Col. Rumsey. *Mr. Goodenough* gave an account of 7 parts of the 20. and said out of them would be raised 2900 men, and made an estimate that the other 13. would not raise above as many more, for those were the most considerable parts, as *Wapping* and *Southwark*.

Mr. S. Jeffreys. *Mr. Rumsey*, Pray what consultation had you afterward, and what was done after?

L. C. J. Pray let us go on a little *gradatim*, What was the reason that this was not effected when the King returned from *New-Market*?

Col. Rumsey. The fire happened, and brought the King sooner from *New-Market* than the men could be got ready.

L. C. J. Was there a day appointed for the doing this? had you a prospect when the King would return?

Col. Rumsey. Yes, it was commonly talked that it would be the *Saturday* before *Easter*, but he came on the *Tuesday* before.

L. C. J. Then give us an account how that design was disappointed at that time.

Col. Rumsey. The fire happened in *New-Market*, and they were all in a confusion, and could not get their men ready by *Tuesday*; the news came upon *Friday* to Town.

L. C. J. Of the fire?

Col. Rumsey. Of the fire, and there was a meeting. *Mr. Ferguson* lodged then in *Covent-Garden*, and sent to several to come to him, to see if men could be got together against *Tuesday*, when the King was to come in, and it could not be done, and it was laid aside for that time.

Mr. Att. Gen. Upon that what resolution was taken?

Col. Rumsey. Then they had a meeting, and *Ferguson* was not there, there was *Cap. Walcot*, *Mr. West* and *Mr. Goodenough*; this was immediately after this disappointment, I am not certain whether it was in *Mr. West's* Chamber: and that there might no accident happen afterwards to hinder it, it was resolved that money should be raised for the buying of Arms; and *Mr. Ferguson* undertook to raise money to buy Arms, and *Mr. West* did undertake to provide them.

Mr. Att. Gen. Who undertook to provide men?

Col.

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Col. Rumsfy. Mr. Goodenough and Mr. Rumbold.

L. C. J. Look you, Colonel Rumsfy, after this disappointment, when this next meeting was, had you any further design upon the King then? Col. Rumsfy. Yes, my Lord.

L. C. J. Give us some account of that.

Col. Rumsfy. It was to be done a coming from Windsor to London, or from Windsor to Hampton-Court, or the Play-House, and therefore that Arms should be ready against any opportunity that should happen, let it be what it would; and Mr. West did undertake to provide Arms, and he told me he bought them, and did not get his money in six or seven weeks after, a day or two after going to Ferguson, he told him now he might have his money, if he would send a Note to Major Wildman; but after he was told, that Major Wildman would not pay it by Note, but he must send Mr. Rumbold to him for it, for he would trust no body else but him. And so Mr. West did send Mr. Rumbold, and he was there at his house by six a clock in the morning, but he was gone out of Town an hour before, so Mr. West went to Mr. Ferguson, and he then told him that he should have money in two or three days, if he would come to him, and Mr. West did go to him, and he paid him an hundred pound.

Mr. Att. Gen. Was there any provision made for a Rising now again?

Col. Rumsfy. Yes, this general Rising, by this division of the City, was intended to be ready against the first opportunity that hapned.

Mr. Att. Gen. Before this Discovery, did you keep up these Meetings?

Mr. Sol. Gen. When was your last time?

Col. Rumsfy. My Lord, I think it was the very Thursday before the Discovery; but then on Friday or Saturday, we had inklings that this was discovered, and did meet at the George upon Ludgate Hill.

L. C. J. Who met then?

Col. Rumsfy. I think it was the very Thursday before, I am not very certain, we met at the Salutation in Lombard-Street; and there was Captain Walcott, Mr. West, Mr. Wade, the two Goodenoughs, and Mr. Nelthrop, and my self.

Mr. Att. Gen. What did it come to, pray what was your Discourse then and Resolution?

Col. Rumsfy. The Resolution was still to carry it on. We went thither to know of Mr. Goodenough, what was done about the other thirteen parts, he told us he had no account, but he said, he thought he should have a Meeting on Saturday in the afternoon at Ludgate-Hill, at the George, to have his answer, but the Discovery coming, there did only meet Mr. Norton, Mr. Bourne; there was another, I don't know who the other was, there was a fourth.

Mr. Att. Gen. Mr. Rumsfy, Pray after the Discovery, What did you resolve upon? What Meetings had you upon your Flight?

Col. Rumsfy. We met at Capt. Tracey's. Mr. Att. Gen. What day was that?

Col. Rumsfy. That was upon the Monday after the Discovery.

Mr. S. Jeffreys. Who was there?

Col. Rumsfy. There was Capt. Walcott, Mr. West, Mr. Wade, Mr. Nelthrop, the two Goodenoughs, and Mr. Ferguson. Mr. Att. Gen. What did you discourse of there?

Col. Rumsfy. There was exclaiming against Mr. Keeling, and taking Resolutions to be gone.

L. C. J. Mr. Keeling! What was Keeling?

Col. Rumsfy. Mr. Keeling was he that made the Discovery.

Mr. S. Jeffreys. Have you ever been in Keeling's Company?

Col. Rumsfy. I was that time we met at the Salutation, he came in there for a quarter of an hour.

L. C. J. Look you, Sir, Do you know Capt. Walcott? Are you sure it is that Gentleman at the Bar? Col. Rumsfy. Yes, my Lord.

L. C. J. Hath he owned always the Name of Walcott? Col. Rumsfy. Yes, my Lord.

L. C. J. What did he say to Mr. Keeling, when he came to the Salutation?

Col. Rumsfy. There was in that very days Gazette a Report of a Rising at Cologne, and one Gulick that headed them, and said Mr. West to Keeling, he should be our Gulick.

Mr. Att. Gen. Pray how did he interpret it at that time?

Col. Rumsfy. Mr. West said that Gulick was Keeling, Gu was Keel, and lick was ing.

Mr. S. Jeffreys. A Quirk upon his Name. Mr. Att. Gen. When you resolved to flee, Had you any discourse of making a Stand, and fighting the Government then?

Col. Rumsfy. Not that I know of, I was not all the time with them.

L. C. J. Look you, Colonel Rumsfy, let me ask you this, What was Keeling to do? Was there any Post assigned to Keeling in this?

The Tryal of Captain Walcott.

Col. Rumsey. I never saw him before.

L. C. J. How long was it before the Discovery, that you did see him?

Col. Rumsey. The Thursday before.

L. C. J. At the *Salutation Tavern*? Col. Rumsey. Yes, he was there call'd *Gulick*.

Mr. S. Jeffries. If Captain *Walcott* will ask him any Questions, he may.

L. C. J. Look you, Mr. *Walcott*, now you may ask Colonel *Rumsey*; tell me what Questions you would have asked, and I will ask him.

Capt. *Walcott*. I desire Colonel *Rumsey* may be asked, Whether I ever met at Mr. *West's* Chamber, till after His Majesties Return from *Newmarket*.

L. C. J. Look you, Sir, you hear the Question; it is, Whether ever Mr. *Walcott* met with Mr. *West*, till after the King's Return from *Newmarket*?

Col. Rumsey. Till after?

L. C. J. Till after the King's Return. Col. Rumsey. Yes, Sir.

Capt. *Walcott*. My Lord, I have sufficient Evidence against that.

Mr. S. Jeffries. I think that he was to undertake the Guards, that was before the King came from *Newmarket*.

L. C. J. He hath given this Evidence, He was there, and he would not attacke the Coach; he would not meddle with the King, but he would fall upon the Guards.

Capt. *Walcott*. Shall I speak a word, my Lord?

L. C. J. Look you, I will tell you, you shall have your Answers to these things, you have Pen, Ink, and Paper.

Capt. *Walcott*. But I have a bad memory, and I am afraid I shall forget this very thing.

Mr. S. Jeffries. I hope the Jury will not forget it.

L. C. J. Look you, Mr. *Walcott*, we must not admit you to break in upon the King's Evidence, when that is heard, you shall have your liberty to make your Answer to any thing, and call any Witnes.

Col. Rumsey. My Lord, I will give one Instance more: There was one Meeting at the *Five Bells* in the *Strand*, where there was only *Ferguson*, Captain *Rumbold*, Mr. *West*, *Goodenough*, and my self: And Mr. *Ferguson* told us that Night, that Captain *Walcott* would come the next Meeting we had at Mr. *West's* Chamber.

L. C. J. Then Captain *Walcott* was not with you at the *Five Bells*?

Col. Rumsey. Mr. *Ferguson* told us he would come in the next time at Mr. *West's* Chamber, and there he did come.

L. C. J. And that was before the King went to *Newmarket*. Pray, Sir, answer this, Was this before the King went to *Newmarket*, or not?

Col. Rumsey. No, my Lord, this was, when he was at *Newmarket*; for the King was at *Newmarket*, when he and Mr. *Ferguson* came from *Holland*, the King was then at *Newmarket*.

Mr. S. Jeffries. Now we will call Mr. *Keeling*. (Who was sworn.)

Mr. Att. Gen. Pray will you acquaint my Lord, and the Jury, what you know of these Conspiracies, and touching this man.

Mr. *Keeling*. Some time my Lord, before the King went to *Newmarket*, I was at the *Sun-Tavern*, and in company with *Richard Rumbold*, *Richard Goodenough*, and some others; *Goodenough* calls me forth of the Room, and asked me what Men I could procure? I asked him, For what purpose? He said, To go down towards *Newmarket*. I asked, For what end? He said, To kill the King, and the Duke of York. I told him, I thought none. Before the King came from *Newmarket*, he renewed his Question to me again several times: I had, in the interim, some discourse with *Burton* and *Thomson*; *Burton* told me, That *Barbor* would be concern'd; and he also told me, *Thomson* would. The Saturday after the Fire hapned at *Newmarket*, *Rumbold* came down to my House, or the Friday, the day that the News was of the Fire, the day that he commonly came to Town, he came to my House; it was on the Friday, to see those men I could procure, and he desired to see them on the morrow, which was the Saturday before the King returned; the Saturday after the Fire, I went into *London*, and met Mr. *Rumbold* that day at the *Exchange*, and he then put me in mind of the matter again. I did go to *Burton*, and *Thomson*, and *Barbor*, the place appointed on Saturday was the *Mitre-Tavern* at the corner of *Dukes-place* within *Alldgate*. He did meet there, where there was some discourse hapned tending to that matter by *Rumbold*; the substance of which was, Whether they were willing to go down? I think he call'd the Place by the name of, *The Rye*, that is his House; there being, says he, no greater conveniency than in that, I believe scarce in *England* for the executing such a Design, being an House very intire to it self, and very remote from Neighbors, besides the advantage that belongs to it of a Court or Wall. And, among other discourse, this was an

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Argument to prevail with those persons: For, saith he, it will be a keeping one of the Commandments, to kill the King, and the Duke of York; for, says he, if that be not done, there will be otherwise a great deal of Bloodshed committed. He also told us the way that he design'd to effect this at his House; That he had a conveniency for our Horses; and that there would be so many appointed to shoot at the Postillon and the Horses; and that there would be so many appointed at the Coach, and so many Men to attack the Guards: And if there was a Failure in shooting the Coach-Horses, that then there should be Men in the habit of Country-men, with a Cart in the Lane, and they should run this Cart athwart the Lane, and so stop the Coach. I believe there might be some other Particulars, which, at present, I do not remember. From thence we went to the Exchange, and there we met in the Afternoon at the *Dolphin-Tavern* in *Bartholomew-lane*, there was *Rumbold*, *West*, *Goodenough*, and *Hone* the Joyner. And after we had been there a little, *West* asked *Rumbold*, Whether he heard the King would come home that Night? He said, Yes, he heard so; but, said *West*, I believe he won't come till Monday, and I hope he won't come till Saturday, for that was the day appointed to go down to Rye, to meet the King, and the Duke of York. Said *Rumbold*, I hope they will not come till then: But, said *West*, if they do come, How many *Swan-quills* must you have? How many *Goose-quills*? And how many *Crows-quills*, with Sand and Ink, must you have? Said they, Six *Swan-quills*, Twenty *Goose-quills*, and Twenty or thirty *Crow-quills*.

L. C. J. Explain that.

Mr. Keeling. I am coming to it. I asked *West* or *Rumbold*, or both of them, what they intended by it? they told me *Swan-quills* were Blunderbusses, *Goose-quills* Musquets, and *Crows-quills* were Pistols, Sand and Ink, Powder and Bullet. This is all my Lord as I remember in general as to the Design.

L. C. J. What can you say concerning the Prisoner at the Barr?

Mr. Keeling. I was at the *Salutation Tavern* and Captain *Walcot* was there, and when I came in, there was some person called me *Culing*, and I a little stranged at it, not knowing the meaning; says I, Gentlemen, what do you design by it? says one, here's a good health to our English *Culing*; says *West* *Culing* in Dutch is *Keeling* in English, and says Mr. *West*, I hope to see Mr. *Keeling* at the head of as good an Army in *Wapping* as *Culing* is at *Colten*. I suppose Captain *Walcot* remembers it very well. I can say no more, Sir, to the Prisoner at the Barr; I remember not to have seen him any other time upon this Design. Mr. Serj. *Jefferies*. Would the Prisoner at the Bar ask him any questions?

Cap. *Walcot*. My Lord, I don't remember any such thing. If you please, my Lord, to ask him, whether I call'd him *Culing*, or said any thing more or less to him.

Mr. Keeling. I don't say you did, but you were by, that I say.

Mr. Serj. *Jefferies*. I think, Mr. Keeling, you were the person that made the discovery; give an account of it for the satisfaction of the world.

L. C. J. Upon what occasion did you reveal this?

Mr. Keeling. If your Lordship please I will give you an account. There was something happened before that time. Some time before this thing was discovered, *Goodenough* came down to my house, and I went with him to drink a dish of Coffee, and there was in company with him *Richard Rumbold*, and his Brother *William*; that I believe Mr. *Walcot* knows; and when we were by our selves, he pulls out some papers out of his pocket, and gave me one; I asked him what he meant; he told me he had divided the City and Suburbs into twenty parts, and there was three divisions; and says he, you know the persons better than I, and who you can trust with it; one is for your self, and I would have you take to your assistance nine or ten men, more or less, that you can communicate it safely to, and they were to go to several persons, and ask them, supposing that the Papists should rise, or that there should be a general Insurrection, or a French Invasion, Are you in a posture of defence? This was all we were to communicate of the matter to them, and this was to feel them, and see how many men they could raise. And he told me there was a design to kill the King and the Duke, which was design'd to be done at the Bull-feast, for Mr. *West* had told me it was to be done between *Windsor* and *Hampton-Court*. I asked him if that Design went on, and he said no; for the Duke of York seldom came with the King from *Windsor* to *Hampton-Court*, but it was to be at the Bull-Feast. And says he, these men are to be in a readiness, and its designed that the thing should be laid upon the Papists, as a branch of the Popish Plot. He also told me, there was one drawing a Declaration, which would relieve poor people of that which seemed most burthensome to them, which was the Chimney-money, and then the Common People would fall in with them more readily.

Mr.

The Tryal of Captain Walcott.

Mr. Att. Gen. How came you to discover it?

Mr. Keeling. I will tell you, Sir, I was troubled in my mind about it, and do declare that was the only Reason; I thought I did very ill in not discovering it, and I had no peace nor satisfaction, nor content, nor did I mind my business, nor could I take that rest that at other times I did, and that was the moving Cause, and no other. I thought if it were a Sin in *David* to cut off the Hem of *Saul's* Garment, it was a Sin in me much more to kill my King.

L. C. J. Was there any Post in this Case assign'd to you? Was it requir'd of you to do any thing your self, more than to raise those Men, and know whether they were in a readiness? Were you design'd to go down to *Rumbold's* House? Tell what part you were to act.

Mr. Keeling. In the first place, I was to raise some men, but I thought they looked upon me for one to go down my self with those men I raised; but I remember not that I was asked the question.

L. C. J. Were any of those men to go down?

Mr. Keeling. Those three I named were to go down, *Burton*, *Thompson*, and *Barber*.

Mr. Att. Gen. Call *Mr. Bourne*.

L. C. J. Tell us the manner of your revealing and discovering this, who you discovered it to.

Mr. Keeling. I revealed it to one *Mr. Peckham*.

L. C. J. Who did he bring you to?

Mr. Keeling. To my Lord *Dartmouth*.

L. C. J. And so you did discover the whole business to him?

Mr. Keeling. I had offered to discover it to another man before, but I thought he was careless, so I did not tell him positively what I thought to tell him, because I saw he slighted the matter, he was a Minister of the Church of *England*. Then I went to *Mr. Peckham*, knowing he was intimate at Court, and from thence to my Lord *Dartmouth*, and then I was carried to *Mr. Secretary Jenkins*.

Mr. Att. Gen. Was there no Design to take off the Mayor or the Sheriffs in particular?

Mr. Keeling. I will tell you, *Goodenough* did tell me, That the Design was to secure the Lord Mayor, and the Sheriffs; and he told me, they had a design to secure the Tower.

Mr. Att. Gen. Were you employed to arrest my Lord Mayor?

Mr. Keeling. I did arrest my Lord Mayor.

L. C. J. What are you? How came you to arrest my Lord Mayor? What are you by Profession? *Mr. Keeling.* A White Salter, or Oyl-man.

L. C. J. How came you to arrest my Lord Mayor?

Mr. Keeling. I was put upon it by *Goodenough*, and those men.

L. C. J. As a special Bailly? *Mr. Att. Gen.* He was as a special Bailiff.

Mr. Keeling. Under the Coroner.

Mr. S. Jeffreys. A special Bailiff under a special Coroner.

Mr. Bar. Street. Was this Coroner any time at any of your Meetings?

Mr. Keeling. No, my Lord. *Mr. Bar. Street.* I am glad he was not.

L. C. J. What say you, *Capt. Walcott*? *Capt. Walcott.* My Lord, I have nothing to say.

Mr. Sol. Gen. Call *Zachary Bourne*.

(*Who was sworn.*)

Mr. Att. Gen. Pray will you recollect your self, and tell what knowledge you have of the Prisoner, what Meetings you had, and what was agreed.

L. C. J. Raise your voice a little.

Mr. Bourne. The occasion of my knowing *Captain Walcott* was *Mr. Fergusons* lodging at my house, *Captain Walcott* used to come thither, but it was sometime before I changed any words with him.

Mr. Att. Gen. Speak aloud, *Mr. Bourne*.

Mr. Bourne. *Mr. Wade* came presently after I came to Town from the Wells, and said, I must needs meet in such a place, it was at the Dragon upon *Snow-Hill*, where we met several others besides *Captain Walcott*; the business was a design to raise men, and divide the City into twenty Divisions, in order to the securing of his Majesty and the Duke of York, and setting up the Duke of *Monmouth*.

L. C. J. Was it securing or killing?

Mr. Bourne. It was not killing I think, we never expressed it killing at those meetings. I think every time I met them *Captain Walcott* was there. Once I was at the *Salutation* in *Lombard-Street*.

L. C. J. What was the result of your meetings?

Mr. Bourne. To make all expedition imaginable.

L. C. J. Was

L. C. J. Was it discours'd how, or in what manner those persons were to be rais'd? Don't enter your self to the Evidence that went before, but tell it your self.

Mr. Bourne. The City was to be divided into twenty Divisions, and to raise as many men as they could out of them, but they were not to tell the direct business, but if there should be occasion, or the Papists should rise, they might know their strength, and what they were able to do.

Mr. Att. Gen. This was their pretence, because it should not be told those men.

L. C. J. Did Mr. Goodenough bring any account of it?

Mr. Bourne. Mr. Goodenough brought an account of about four thousand; three I think it was, or very near, out of those Divisions he had an account of.

L. C. J. Was Captain Walcott there at that time? Mr. Bourne. Yes.

Mr. S. Jeffreys. When the Discourse was about securing the King and the Duke, was Captain Walcott there? Mr. Bourne. Yes.

L. C. J. Did you hear what Parties were design'd to be in this act?

Mr. Bourne. They were not come to that.

L. C. J. Did you break off from them before that?

Mr. Bourne. No, the Discovery prevented it.

L. C. J. When was your first meeting? about what time?

Mr. Bourne. About ten days before the Discovery was made.

L. C. J. Was Mr. West at any of your Consults?

Mr. Bourne. Yes, at some of them, and Captain Walcott was at three of them, if not at all, I think.

L. C. J. What was to be done?

Mr. Bourne. They were to have seized my Lord Mayor and the two Sheriffs, and some of the Aldermen, and the chief Ministers of State about Town.

Mr. Bar. Street. Was there any body designed for that particular business?

Mr. Bourne. No, not then, it was not come to that.

Mr. Att. Gen. Was there any thing about my Lord Keeper?

Mr. Bourne. Yes, Mr. West did say to me, it should be my business to secure my Lord Keeper. I told him, I did not care to meddle with any of my neighbours. He said, he would call him to account with all his heart, he would put him in mind of Colledge.

Mr. Att. Gen. Pray were you employed to speak with any of the Nonconformist Ministers about it?

Mr. Bourne. I would have spoke to two of them, and Mr. West was unwilling, for he said the Ministers had destroyed all designs ever since Constantines time, and he would have nothing to do with them now.

Mr. Att. Gen. When was your last meeting, before the Discovery, that you were at?

Mr. Bourne. The Saturday before the Discovery, we met at Captain Traceys, and that evening we had some intimation that there was a Discovery made. And I went again on Monday Morning.

Mr. Att. Gen. Who was there?

Mr. Bourne. Captain Walcott, Mr. Ferguson, Mr. Goodenough, Mr. West, Mr. Norton, and my self, one Captain Pottle came in, but he did not stay.

Mr. Att. Gen. Colonel Rumsey was there to, was not he? Mr. Bourne. Yes, Sir.

L. C. J. And what did you resolve upon then?

Mr. Bourne. Truly they resolved upon nothing, I left them upon the debate of killing Mr. Keeling.

Mr. Att. Gen. Why would they kill him? was that debated among them?

Mr. Bourne. Yes, because he had made the Discovery.

Mr. Att. Gen. Did you hear them talk of standing to it with Swords in their hands?

Mr. Bourne. Yes, rather than be hang'd, they thought that was the better way, and to have Keeling dispatched out of the world.

L. C. J. Look you, Sir, did any of them talk of securing themselves?

Mr. Bourne. The next morning I went again, and they were all gone but Mr. West, they had all secured themselves.

L. C. J. Was the Prisoner at the Bar there at that time, when they consulted about killing Mr. Keeling? Was he there at that meeting on Monday morning?

Mr. Bourne. He was there at Captain Traceys, he was there I think all the while, while I was there, for I was not there all the time.

L. C. J. (To Walcott.) Now, Sir, what Question would you have?

Cap. Walcott. My Lord, if you please, I would ask whether he ever heard me say any thing more or less, of assassinating the King.

The Tryal of Captain Walcott.

L. C. J. In the first place, did you hear any thing in general of assassinating the King?

Mr. Bourne. I did hear of it, my Lord, when the thing was over. And as to his question, I did never hear him discourse of that matter. I understood the design was prevented.

L. C. J. Who did you understand that from?

Mr. Bourne. From one *Mr. Row*, and *Mr. Ferguson*.

Mr. Att. Gen. Pray in all your meetings was there no discourse of killing the King and the Duke?

Mr. Bourne. Very little.

Mr. S. Jeffreys. The discourse was about securing the King while *Walcott* was there.

Mr. Bourne. There was such discourse in several meetings. It was said it would be well if they were off, and the discourse was about Lopping.

Mr. Att. Gen. Pray, tell my Lord, What discourse you had of Lopping, and the general Point.

Mr. Bourne. They said, there was no way like Lopping them.

Mr. Att. Gen. What was understood by that?

Mr. Bourne. The taking off the King, and the Duke of York.

L. C. J. Was that the usual Phrase among you, to signifie that?

Mr. Bourne. Yes, my Lord.

L. C. J. Was he there?

Mr. Bourne. I have heard it several times, and I suppose he was there at the hearing of it.

L. C. J. (To *Walcott*.) Look you, Sir, he speaks of the time of discourse, of securing the King, and says you were there then.

Capt. Walcott. I had no hand in it.

Mr. Att. Gen. We will nail it home upon you, we will call *Mr. West*. (Who was sworn.)

Mr. S. Jeffreys. Come, *Mr. West*, do you tell my Lord and the Jury, the whole Story.

Mr. West. My Lord, I came acquainted with the Prisoner at the Bar last Summer, Vacation, by the knowledge of one *Wilcocks*, who, I suppose, return'd his money out of Ireland. I heard a very fair Character of him, and he, I suppose, met with such an one of me, which did incline us both to an Intimacy, and to talk freely with one another. About the middle of *October*, I observ'd a general Discontent in the City, and was afraid there was some Design in hand, and was very inquisitive to know it: I was unwilling to be involved and surprized into a sudden Ruine, and so thought fit to inquire of them that were most likely to be concerned. I took *Capt. Walcott* for one, being inform'd that my Lord *Shaftsbury* had sent for him out of Ireland; and *Capt. Walcott* told me, that my Lord was also sending for some *Scottish* Gentlemen, on occasion of *Carolina*; but that he was very cool in *Carolina* business, and that that was but a Pretence. My Lord, one morning *Capt. Walcott* came to my Chamber, and we discours'd concerning the Election of Sheriffs carried on in the City, contrary, as we thought, to the Justice of it: Says he, Will the People do nothing to secure themselves? With that he told me a Secret, and said there was a Design of an Insurrection to be made within three Weeks, or a Month, that would make us free, or worse. I told him, I thought it was a certain way to bring us into a worse condition, and that it was very full of hazards. He told me then, he did not know whether he should be concerned: But a little while after he told me, my Lord *Shaftsbury* was engag'd in such a Design, and he had engag'd him in it; and he told me, he had an expectation of being a Colonel of Horse, and ask'd me, If I would have any Command under him? I told him, I knew some Gentlemen of the Temple that I might engage in it, but I told him I had not a Constitution to bear the Toils of War. My Lord, he told me then, That my Lord *Shaftsbury*, to the best of my remembrance, had another Design upon the King, and the Duke, as they came from *Newmarket* in *October* last, but he told me he abhor'd any such thing, it was ungenerous, and he would not be concern'd in it, but only in a general Insurrection. But this he did tell me, I think, before the thing was to be executed; I imparted it to no Body, till after the time of both was past: But in the discourse of the Insurrection, he told me, I should lend him a Suit of Silk Armour, which I bought about 4 or 5 years ago, when the Popish Plot broke out, and he would have had me kept that, and used it my self, which I did decline. Then he told me, he had very good Swords in Ireland, but he wanted them here. Says he, I am a man that am observed, because I have a Correspondence with my Lord *Shaftsbury*, and asked me, If I would provide him a good stiff Tuck? I told him, I would, and I did bespeak one; but before it was done, the Design was laid aside, and the Tuck was left upon my hands. I came to understand that the Design was put off, by means of *Mr. Trenchard*, who had discours'd about a Fortnight before of great Forces he could raise in the West, and the Duke of *Monmouth* sent for him, but his heart fail'd him, and he could not raise any men; upon which, my Lord *Gray* call'd him Coxcomb. This was about the 19th of November.

Mr. Att. Gen.

Mr. Att. Gen. What time of November?

Mr. West. The 19th.

Mr. Att. Gen. But upon what day?

Mr. West. Queen Elizabeth's day.

Mr. Att. Gen. No, Sir, that is the 17th.

Mr. West. Now after this I understood by Capt. Walcott that Mr. Ferguson had the management and conduct of the Assassination in October, and that he likewise was acquainted with the Insurrection, and was a great man in it. I met with Mr. Ferguson, and fell into discourse with him, and he treated me, as he always did, with a long story of the miseries of Scotland, and that the people were all in slavery and bondage, and would be so here if they did not free themselves: and says he, there are two ways thought upon for it, one is by a general Insurrection, and that is gone off; the other is a much more compendious way, by killing the King and the Duke of York. My Lord, I told him, I thought the first way was a very dangerous way, that the people were in no sort of capacity to carry it on, that the Government had the Navy and the Militia, and this would at the best entail a long War. He told me he thought the other was the best way, and we went to a Tavern, where Col. Rumsey, and one Row, and he and I went divers times. They proposed to meet at my Chamber as a place of privacy and little observation. My Lord, when they came to my Chamber, Mr. Ferguson proposed several ways of doing it. One way was as the King and Duke had their private visits in St. James's, where it was an easie thing for Sword-men to kill them. There is one thing I have omitted, and that was after the design of October had miscarried, I think, to the best of my remembrance, Capt. Walcott told me, there was another design of attacking the King and the Duke at my Lord Mayors Feast in the Hall, or in their return home, in Pauls Church-yard, or at Ludgate: and Mr. Ferguson did likewise tell me the same thing, but the King not dining there the thing was wholly disappointed. Another way that he proposed was, that they should do it as the King and Duke went down the River, they should lie behind some small Ships within a Hoy, or some such thing, and so overrun their Barge; and if that fail'd, they should break a plank with their Blunderbusses, and so sink them. Another way was at the Playhouse, and that was to be done in this manner; there should be 40 or 50 men got into the Pitt with Pocket Blunderbusses, or Hand Blunderbusses, and Pistols and Swords; and when the Musick struck up between the Acts, they should fire upon the Box; but this they thought was hazardous, and therefore they thought it better to do it as he came back, and pitched upon Covent-Garden under Bedford-Garden Wall, because there was a conveniency for a great many men to walk in the Piazza, and there might be another parcel of men planted at Covent-Garden Church Porch, and within the Rails where horses could not come; and while the men within the Rails fired, the men in the Piazza might engage the Guards, and they in the Church Porch to come down and secure them from escaping.

Mr. Sol. Gen. Where was this time?

Mr. West. I think it was before Mr. Ferguson went for Holland. And, my Lord, there was another thing propos'd; I think it was Colonel Rumsey did say, He wonder'd that the Lords and great Men that were so fond of the thing, did not raise a Purse, and buy some Body an Office, who should rail against the Duke of Monmouth, and the Whigs, and by that means get himself an opportunity of access to the King's person. My Lord, after these Discourses, when my Lord Shaftsbury retir'd to Holland, Mr. Ferguson thought fit to do so too: He was afraid of a Book that he had printed, and away he went, and Capt. Walcott with him. In the mean time I met Col. Rumsey several times, and several things were offer'd, but nothing resolv'd upon. A little after Christmas we met at the Salutation-Tavern in Lombard-street, and there it was agreed we should send for Mr. Ferguson, and there I writ a canting Letter, that he should come over for his health, for he was the only man that could manage the Affair. When he came over, there was one Meeting at the Five Bells, but I came in just as they were coming away, and cannot say what pass'd there. After that they came several times to my Chamber, and there Mr. Ferguson, Mr. Goodenough, and Mr. Rumbold, undertook to provide the men.

L. C. J. The Men, for what?

Mr. West. The Men for the Assassination: That I was not concern'd in, either in Person or Purse, or to procure any Body for it. And they did agree to do it in the going to or from Newmarket, and thereupon were several Debates, Whether it should be done at their Going, or Coming Back. Against doing it Going Down, it was objected, That the Guards were left here and there, and they went together, but very often they return apart, and therefore it was not the safest way Going Down; and nothing also being prepar'd, so it was resolv'd to be done Coming Back. Then it was consider'd what Arms should be provided: Mr. Rumbold was the Man to manage that matter, and was to procure some Blunder-

derbuffes, some Carbines, and some Pistolls; but there was nothing to be prepar'd as I know of by other persons, but every Man was to provide himself. Several Meetings there were, they brought their Notes, and conferr'd together about the Men, but I remember no Names, but *Keeling* and *Burton*: And *Mr. Goodenough* said, he had spoke to one *Hone* a Joyner; and, I think, he spake of one *Manning*, and these are all the Names I can remember. After they had conferr'd their Notes, I ask'd *Mr. Ferguson*, What provisions of Money he had made? Says he, I shall have Money when the Men are provided, but not till then: For, said he, the last time there was some Money rais'd, and put into a Man's hand, who never returned it, but since I understand it was paid to *Mr. Goodenough*. And *Mr. Ferguson* said, *Mr. Goodenough* call'd him Fool, for returning some Money he had, and not keeping it for his own use; and my Lord *Shaftsbury* had often complain'd of that Injustice done him: The Colonel said, *Mr. Charlton* should pay the Money. There was a further Debate, How these Arms should be got down to *Mr. Rumbold*; It was propos'd, to send them down by *Smithfield* Carts in Chests. Others, to send them down by trusty Watermen, who were to cover them with Oysters. Others, that the Men should carry them; but no Resolution taken: Then it was consider'd, how they should get off. The next thing was, how they should execute this; and it was propos'd, That one Party was to fall upon the Coach-Horses, a second upon the Coach, a third upon the Guards: Captain *Walcott* would not undertake any thing but the Guards.

Capt. Walcott. What do you say, Sir?

Mr. West. Sir, I do say, you were at my Chamber, and did say, you were to command that Party of Horse that were to attacke the Guards. It was to be done at *Rumbold's* House; they were to lie there *Pardue*, till the King just came down upon them.

Mr. S. Jeffreys. At the time of the Assassination?

Mr. West. Yes, Sir.

Mr. Att. Gen. Where were these Arms to be carried?

Mr. West. To *Rumbold's* House; I did not see it: But he said he could keep them all private, where no Body could see them, till the time of the Execution. And that there was a Gate they were to pass through, that he could shut upon the Horse-Guards, that they should not be able to come in for their Relief. *Mr. Rumbold* said, he would bring them off; and said, he thought it dangerous for them to go the Road-way, but he would bring them over the Meadows, and come in by *Hackney Marsh*: But the way which the Prisoner did most approve of, was, That they should retire within his Wall, there keep till Night, being a Place they could defend against any Force for a days time.

Mr. Att. Gen. Where was this Resolution taken?

Mr. West. This Resolution was taken at my Chamber. My Lord, As to the Attempt, when they design'd to make it upon the King's coming from the *Play-house*, one *Mr. Row* said, he had discours'd with one *Gibbons*, that was the Duke of *Monmouth's* Servant, about it, and ask'd him, If any of their Family knew of it? Yes, says he, they all know of it, but they will not be seen in't; and said, that he shew'd him the place. My Lord, in one of the Discourses I had before *Mr. Ferguson* went for *Holland*, I had a mind to be rid of the thing, but I did not know how; so I created difficulties, and said, I suppose the Duke of *Monmouth* is to get most by it, what Security will you have you shall not be hang'd when the thing is done? He is bound, said I, in Honour, to hang us all, and make Inquisition for this Blood, otherwise they will say he is a Party. Says he, What if I get it under his Hand? But, said I, engage his Servants, and that will stick upon him. There is one thing I have omitted, which was in the first Discourse with *Capt. Walcott* about the Insurrection of *November*; he told me that my Lord *Shaftsbury* was preparing a Declaration to be published, in case of an Assassination or Insurrection, and he ask'd me, If I would undertake to do one too? For, says he, I would have several People draw it, to pick one good one out of all. And he told me he had made some Collections towards it, and shew'd me a Paper, which was a Collection of all the Passages in the Three Kings Reigns, *K. James*, *Charles I.* and this Kings, that he call'd Attempts to introduce Arbitrary Government and Popery; and concluded, taxing them with some personal Vices, and that the Government was dissolved, and they were free to settle another Government: These, I perceiv'd, were the Topicks my Lord *Shaftsbury* laid weight upon. I told him that this did require an exact knowledge of the History of those Times, and I would not undertake a thing to which I was not competent; and so he desir'd me to burn the Paper, which I did: But for any other Declaration, my Lord *Shaftsbury* kept his Paper to himself, and I never did see it, though I desir'd it.

Mr. S. Jeffreys. Can you remember in whose Name the Declaration was to run?

Mr. West. No, I do not remember that.

Mr. Att. Gen. After the Disappointment, what Meetings had you?

Mr.

Mr. West. Sir, I will tell you, when the News of the Fire came, they adjourned to my Chamber, and there considered what they should do; they were in no readines, nor had any Horles: Nay, I believe the thing could not have been Effect'd, if the Fire had not happen'd, and I was very glad it could not; but for that, I am in the Charity of the Court. They did endeavour to put things in a posture, to see if it could be done another day; I think they met on *Thursday* Night, and *Friday* Night; but they said, the King would be at home the next day, and the thing was laid aside. *My Lord,* A day I think, or two after, I went into the City, and went to the *Dolphin* Tavern, where I met with Colonel *Rumsey*, and this *Mr. Keeling* came in; he was there talking of Blunderbusses and Pistols in down-right English: I told him, it was a foolish thing to talk so before Drawers, and that was the occasion of calling them by the Names of *Swan-quills*, *Goose-quills*, and *Crow-quills*. After this thing we met the next Week, not at my Chamber, Col. *Rumsey* was mistaken in that, but at the *George and Vulture*: There was Captain *Walcot*, *Mr. Goodenough*, *Mr. Ferguson*, one *Norton* and one *Ayliff*: They discours'd of the late Disappointment; and that one reason was, they had not Arms in readines. Then they agreed, That Arms should be bought, and the Number was Ten Blunderbusses that should be twenty or two and twenty inches in the Barrel. Thirty Carbines, eighteen inches. And Thirty Cases of Pistols to be Fourteen inches. *My Lord,* It was put upon me to provide them, for this reason, because I was serviceable to them no other way, and could have a pretence for buying them, because I had a Plantation in *America*; but *Mr. Ferguson* was to pay the Money. *My Lord,* I did bespeak the Arms, and paid for them with my own Money, and was not paid again a great while; *Mr. Ferguson* disappointed me: but at last told me, if I would send to *Major Wildman*, he would pay me. But he told me before that, one *Mr. Charlton* when he came to Town would pay me, but I had none of him. So I told him, I bought those Arms upon a pretence I intended to use them, and had spoke to a Sea-Captain to carry them off to a Plantation where I had a Concern my self. After that, *Mr. Ferguson* sent to me to take my Money, so I came to him; and found with him *Mr. Charlton* and another Gentleman, whom I could not distinguish, because it was duskish; *Mr. Charlton* went down, and then says *Mr. Ferguson*, I have your Money for you; and he paid me in Fourscore and thirteen Guineys, which was something more than the Arms cost; and said, He had not the Money above half an hour in his hands; by which I did guess, it was *Mr. Charlton's* Money. Another thing was, at last meeting with *Mr. Ferguson*, he did say, There was a Man employ'd to see what conveniency there would be for an Assassination between *Windsor* and *Hamp n-Court*; but that was never reported, and so laid aside. That is all I can say concerning the Assassination; but I believe, they did intend to carry it on; for Col. *Rumsey* did tell me, He saw the Hearts of all the Great Men were upon it: and it would be convenient to have an Army to back it. But in case this Assassination had gone on, these things were to be done. It was Design'd, the Lord Mayor and the Sheriffs should be kill'd, and as many of the Lieutenantcy as they could get; and the Principal Ministers of State, *My Lord Halifax*, and *My Lord Rochester* that now is, and *My Lord Keeper*, for which they gave this Reason, because he had the Great Seal; and *My Lord Rochester* as like to stand by the Dukes Interest; and *My Lord Halifax*, as being one that had Profess'd himself of the Party before, and turn'd from the Right side, and had put the Court upon that which otherwise they would never have Acted, nor had the Courage to have done. As for *My Lord Keeper*, They said they would Hang him for the Murder of *Colledge*, and upon the same Post Colledge had hung. *Sir John Moor* was to be Kill'd, and to be hung up in *Guild-hall*, as a betrayer of the Rights and Liberties of the City: And your Lordships to be Flead, and stuff, and hung up in *Westminster-Hall*; and a great many of the Pentional Parliament hanged up, as Betrayers of the Rights of the People.

L. C. J. How was this to be done? to Flea them, and Stuff them?

Mr. West. Yes, I understood it so.

Mr. Atter. Gen. At these Discourses was this Gentleman present?

Mr. West. He was not at my Chamber so often as the rest; he came not there till towards the latter end; but he was there sometimes when these things were discours'd of.

L. C. J. But you say, he did at last undertake to Fight the Guards?

Mr. West. Yes, Upon the News of the Fire, says he, I believe God shews his disapprobation of the thing. Says *Mr. Ferguson*, I believe he reserves them for worse Punishment. *Mr. Walcot* said, He desired to have his Name conceal'd. Why, says *Ferguson*, why should you be ashamed, it is a glorious Action, and such an Action as I hope to see Publickly gratified by the Parliament; and question not, but you will be Fam'd for it, and Statues Erected for you, with the Title of *Liberators Patria*.

Mr. S. Jeffries. What is this *Ferguson*?

Mr. West. He is an Independent Parson.

Mr. S. Jeffries. He Preached excellent Gospel.

Mr. West. Says he, I have told some Non-Conformists, and they desired me to forbear; but, says he, they are silly people, that do not know how to distinguish between killing a Prince for difference in Opinion about Religion, and destroying a Tyrant, for preservation of the Rights and Liberties of the People. He said, it was an action that would make all the Princes of the World tremble, and teach them to use their Subjects kindly. My Lord, they did design at the same time, when the Mayor and Sheriffs were to be kill'd, that Mr. Papillon, and Mr. Dubois should be forced to take the Office of Sheriffs upon them; and if they would not take it, they would use them as they did the other: and that Sir Thomas Gold, or Sir John Shorter, or Alderman Cornish, should be set up for Lord Mayor: but rather Alderman Cornish, as the fitter person. I asked them further, what they would do with the King's Natural Sons? Says he, They are good lusty Lads; I think we had as good keep them for Porters, and Watermen; and for my Lady Ann, they had as good Marry her to some Country Gentleman for a breed, to keep out Foreign Pretences.

Mr. S. Jeffries. I perceive they left nothing unconsidered.

Mr. Att. Gen. Mr. West, To repeat all their passages would fill a Volume; but as to the continuation of the Rising, and whether it was continued?

Mr. West. I have a great many particulars, but have them not in method.

Mr. Sol. General. Answer Questions then.

Mr. West. When Mr. Rumbold came to Town, he said, he saw the King come by but with six Guards, and believed he could have done it with six Men, if he had been provided with Arms. This is all I can say, except some little Discourse which I have not time to reduce into Method. About Christmas Coll. Rumsey told me, there was a Design carrying on among the Lords, and great Men, by whom I alwaies understood, the Duke of Monmouth, my Lord Russel, my Lord Grey, Lord Howard, Coll. Sidney, Major Wildman, Mr. Hambden, for an Insurrection; and that this was designed to be done about March. Coll. Rumsey and I were discoursing of it; and Coll. Rumsey thought it fit to draw up some things, that we should require of them to do for the People; and a Paper was drawn up, but my Lord Russel said, they were rejected, and all should be left to the Parliament. And Coll. Rumsey said, The Duke was inclin'd to gratify the Parliament; but the Lords about him were for Great Places, and they would suffer him to do nothing.

Mr. S. Jeffries. Now tell us about *Culing*.

Mr. West. I Dined at a Tavern with Coll. Rumsey, Mr. Wade, Mr. Nelthrop, Mr. Goodenough, Capt. Walcot, and Mr. Norton.

Mr. S. Jeffries. What was your Discourse there about?

Mr. West. There was no Discourse that had any particular point.

Mr. Solicitor. Was there nothing of Division of the City.

Mr. West. Sir, Goodenough gave some general Account, but nothing was done upon it; while we were there, in came Mr. Keeling to speak with Mr. Goodenough, and Mr. Nelthrop; and in the Gazette that day was an Account of the Insurrection at Collen; and Mr. Nelthrop when he came in, call'd this Man, *Culing*. What is that, what do you mean, says he? I was then writing a Letter, and told him, *Culing* in Dutch, was the same as *Keeling* in English. Mr. Nelthrop took me aside; Says he, What will you say if I, and some Friends of mine, deliver the City, and save the Charter, and no body shall know of it till it be done? but says he, shall not I be Hang'd for it? Said I, Take heed what you do, no body will be Hang'd for any good thing, as to the Delivering of the City. There was a Treaty between the Scots, and our Persons of Quality here, and Coll. Sidney and Major Wildman had the management of it, as I understood. At last, they came down to some Terms; They would have had 10000 *l.* to buy Arms, and came down at last to 5000 *l.* and the Earl of Argyle was to Head them: but when Mr. Ferguson paid me for the Arms, he told me, The Scots business was quite off, and Wildman and Sidney haddone ill with the Scots; for after they had kept them, and treated with them Two or three Months, they broke off because the Scots would not declare for a Commonwealth the first hour, and Extirpating of Monarchy, and the Family of the *Stuarts*: and that the Scots Answer was, That would be to Destroy all their Interest among the Lords; and Providence might order it so, as to bring it to a Commonwealth, but that was a business of time. When this was broke off, Mr. Ferguson told me, That the Duke of Monmouth was willing to speak with me, and Goodenough, and some others. I told him, I never had, nor was willing to speak with him. Then he said, Sir Thomas Armstrong would, I told him, I was not wil-

ling to speak with him neither: Mr. *Goodenough*, I believe, did speak with *St. Thomas Armstrong*. We met at *Richard's Coffee-house*, and adjourn'd to the *young Devil Tavern*, there was Capt. *Walcot*, Col *Rumsey*, Mr. *Wade*, Mr. *Goodenough* and my self, and one *Holloway* a Merchant at *Bristol*. Mr. *Holloway* did propose, since the *Scotch* business was broke of, that they should try what forces they could raise here. And Mr. *Ferguson* did say, if three thousand men could be had, he believed the Duke of *Monmouth* and my Lord *Russel* would appear in the head of them. They were to divide the City into 20 parts, each 20th part into 14ths and 15ths, and to divide it into Streets and Lanes; one Principal man was to have a 20th part, and to have men under him and that they should not interfere with one another, they bought a great Map of the City of *London*. My Lord, I did not read one line in it: but Mr. *Goodenough* being a man of publick acquaintance by reason of his Office did undertake it. I think he did propose Mr. *Borne* for one, and one Mr. *Graines* for another, and said he would speak with Mr. *Keeling*. We had several meetings after this, and Mr. *Goodenough* did report that there were 1300 men out of two of the Hamlets. My Lord, I stood here while Mr. *Borne* gave his Evidence; but I suppose he hath a little forgot himself, for he told me he had spoke to one Parson *Lobb*, and he said to him he would try what his Congregation could do; that he had two in *Newprison*, and he would set them out to see what they could do; that they were poor men, but zealous in their way. I think Mr. *Bourne* hath forgot himself, for he did mention that he had spoken to Parson *Lobb*.

Mr. *S. Jeffries*, Then Parson *Lobb* was in; there was another Parson in.

Mr. *West*. Yes, and he mentioned *Lobbs* Pound.

Mr. *Att. Gen.* The Prisoner was at those several meetings, was he not?

Mr. *West*. Yes, and did shew himself ready to act his part. About a fortnight before the Discovery brake out, Mr. *Rombold* told me they had a great jealousy Mr. *Keeling* would Discover all the business; that Mr. *Keeling's* Wife and Mother cryed mightily, and charged him for neglecting his business; and said they were afraid he would do a great deal of mischief to honest people, for he had replied to them he would not want money, and he would be hang'd for no body; upon which *Rombold* told me, if I was sure of this, says he, I would dispatch him, I would get him into the Country and kill him; but saies he, I will not kill an innocent man; if I thought the thing was not so, I would not kill him for all the World. Mr. *Keeling* told him he had an overture from one *Shoote* of fourscore Pounds a year.

Mr. *Att. Gen.* After you had notice of the Discovery, did you meet?

Mr. *West*. The Saturday before the Discovery, I dined with Mr. *Rombold*, and he took Mr. *Keeling* along with him; saies he, We won't discourage him too much; it may be 'tis not so; Mr. *Keeling* told him he never wanted money so much in his life; Mr. *Rombold* and one *Gale* that was to be one of the Assassins, contrived to help *Keeling* to money, and lent him 100l. Upon the Sunday, I had notice the thing was Discovered, and that *Keeling* had accused me, and Mr. *Goodenough*, and Mr. *Nelthrop*. On the Monday morning early I thought fit to retire; but we did agree to meet at Capt. *Walcot's* Lodging. My Lord, I came thither pretty early, and all the people came afterwards that had agreed to come thither, but they designed to go beyond Sea. I had no mind to go; they had hired a Boat, and gave 5l. in earnest, but the next morning it was said the Messengers were abroad, and that it was believed the River was beset, and there was no getting away; then every man shifted for himself, & I shifted by the means of Mr. *Bourne*, who I thank him, helped me to a conveniency for two or three days. When we were all retired, they got Mr. *Keeling* in the City, and *Rombold* discoursed him in the presence of several people, where he wished a great many imprecations upon himself if he had Discovered. I told them I did not understand him; for if he had made a Discovery, it was a fine way to catch people in. Then there was a discourse of killing him; they proposed to him to go out of Town: he refused them, but said he would go in a few days; that night they followed him, and upon tracing of him, they found he had called out his Brother, and that he and his Brother were gone to the Secretaries, and then it was taken for granted that Discovery was made, and every man must shift for himself. Had not *Keeling* deceived them at that meeting at the Tavern by the protestations he made, some body had killed him there. Then Mr. *Wade* said, if the Duke of *Monmouth* would go into the West, we might try a push for it, and the Prisoner at the Bar said, I am satisfied God will deliver the Nation, tho he does not approve of the present Instruments.

L. C. *Just.* Have you done as to this Gentleman at the Bar?

Capt. *Walc.* When was it that I should say these words? Then I desire your Lordship would ask him how many Months ago it was he saies I gave him the Paper?

Mr. *West*. It was in *October*.

Capt. *Walc.* Then, whether I did not then lye ill of the Count?

Mr. West. Not at that time, *my Lord.* This that I say of the Paper was given me at my Chamber, and then I think he was pretty well.

Capt. Walc. My Lord, I am not so natural a fool to think, for me to charge the Guards, when another man kills the King, but I am as Guilty as he that kills him.

L. C. Just. No doubt of it.

Mr. West. *Capt. Walcot,* I would not take away your life to save my own; but I do take it upon me, that you did agree to Command, or be one of those that were to fight the Guards.

L. C. Just. What was the reason he would not kill the King?

Mr. West. He said it was a base thing that way, being a naked person, and he would not do it.

L. C. Just. So the point is the same, but only you distinguished in the point of your mistaken honour, and thought to kill the King was not so honourable a point, as to fight the Guards.

Capt. Walc. There is no difference between the one and the other, to do one and the other is the same thing.

L. C. Just. Your Judgment is now rectified; but what say you to the matter? for now you hear what is fastned upon you, that is, several Consults about the securing or killing of the King; and your advice was to kill him, and you did go down to *Romball's* house, to view the place where it might be done the most securely; and you did undertake, as several Witnesses say, not only *Mr. West*, but *Col. Romsy* and another of them (*Bourne* I think it was), That you would fight the Gaurds, if you might have a considerable number of men.

Capt. Wal. My Lord, If ever I was at *Mr. Romball's* house, unless it was when I travelled from *York* by *Norwich*, and came to *London*; if ever I was there since, then I am Guilty of all the Roguery imaginable.

Mr. West. I never heard, *my Lord*, *Mr. Romball* say he was there, but *Col. Romsy* told me so.

Col. Romsf. My Lord, he bought an horse, and he said he did intend to go down; and indeed to the best of my remembrance he did say he was down; but I am not certain; but he did buy an horse that cost him, I think, twenty pounds.

L. C. Just. For that purpose? *Col. Romsy,* Yes.

L. C. Just. Now you hear, this is a little more particular than the other; *Col. Romsy* did say before, that you did agree to go down, and as he believes you did go down.

Col. Romsf. I believe *Mr. West* may remember he bought an horse for that purpose.

Mr. West. I remember he bought an horse for service; but I can't say it was to go down thither.

L. C. Just. It does import you to tell us upon what account you met so often, and what was your meaning in hearing these things, and consulting of them, and what your raising of men was for, and the Declaration written for the people, to please the people when this Assassination was over.

Capt. Wal. The Declaration, *Mr. West* saies, was in *October* last.

Mr. West. I take it to be so, *My Lord*, to the best of my remembrance there was this passage: saies he, I believe in a month or three weeks you will be better or worle, so that I measure it by that.

Cap. Wal. My Lord, *Mr. West*, does tell your Lordship a very long story, and sometimes he names one Gentleman, and sometimes another. I am very fearful the Jury will be very apt to apply all to me, who was the man least concerned; for I had the Gout for several weeks together; and *Mr. West* came several times to my own Lodging to see me: And for that of Assassinating the King it never entred into my thoughts more or less; but here are four Gentlemen who by their own Confession are sufficiently culpable; they to wipe off their own stains, are resolved to Swear me out of my Life.

L. C. J. What made you among them?

Mr. West. I do take it upon me, he was there three or four times.

Cap. Wal. I did not stir for three weeks or a month. I came to Town on *Wednesday*, and then fell ill of the Gout, and that continued for divers weeks; for a months time that the King was at *New-Market*, I am confident I was not out of my Chamber, unless I made a shift to scramble to *Stepney*, and dipp'd my foot in every Well of water I came by.

Mr. West. My Lord, I do remember this passage, The he was afraid he should not be able to draw on his Boot, because he had the Gout.

Cap. Wal. I desire to know, *my Lord*, when is the time *Mr. West* speaks of, that I gave an account of killing the King at my Lord Mayors Feast?

Mr. West. I do not charge you positively with it; but I had it from you or *Mr. Ferguson*, but I must do the Prisoner justice, he said he would be no way concerned in it.

Mr. Att. Gen. Pray Swear *Mr. Blaithwaite*, (which was done.) *Mr. Blaithwaite*, pray tell

my Lord and the Jury, whether Capt. Walcot owned that to be his hand.

A Letter being then produced from Captain Walcot to Mr. Secretary Jenkins:

Mr. Blathw. My Lord, I remember when Captain Walcot was Examined before the King, he did own this to be his Hand.

Sir Geo. Jeff. Give it in.

Cl. of Cr. Honoured Sir, July 5th. 83.

L. C. J. Who is it directed to?

Cl. of Cr. There is no Direction.

Mr. Blathw. It was Directed to Mr. S. Jenkins, as I find by the Minutes I then took of it.

L. C. J. Here is the Cover it seems.

Cl. of the Cr. To the Right Honourable Sir Leoline Jenkins, &c.

Honoured Sir,

I Bring in the Country, and to my great trouble seeing my self in his Majesties Proclamation, I came last Night to Town, resolving to lay my self at his Majesties Feet, let him do with me what he pleaseth; This is the first Crime I have been Guilty of, since His Majesties Restoration, and too soon by much now: If his Majesty thinks my Death will do him more good than my Life, God's Will, and His be done. Until I sent your Honour this Letter, my Life was in my own power, but now it is in the Kings; to whom I do most humbly propose, That if his Majesty desires it, I will Discover to him all that I know relating to England, Scotland, or Ireland; which I suppose may be something more than the Original Discoverer was able to acquaint His Majesty with; especially as to Ireland: There is not any thing His Majesty shall think fit to ask me, but I will answer him the Truth, as pertinently and as fully as I can; My intimacy with a Scotch Minister, through whose Hands much of the Business went, I judge occasioned my knowing very much: And I do further humbly Propose, That if His Majesty thinks it advisable, I will follow those Lords and Gentlemen that are fled into Holland; as if I fled thither, and had made my Escape also, and will acquaint the King, if I can find it out, what Measures they resolve of taking next: I do assure His Majesty, the Business is laid very broad, or I am misinformed. And I am sure as to that particular, if my being with His Majesty, and your Honour, be not Discovered, I shall be ten times able to serve him, than either Mr. Freeman, or Mr. Cart, for they will trust neither of them. There's scarce any thing done at Court, but is immediately talk'd all the Town over; therefore if His Majesty thinks what I have presumed to propose, Advisable, I do then further most humbly Propose, That my waiting upon His Majesty may be some time within Night, that your Honour will acquaint me the Time and Place where I may wait upon you, in order to it; and that it may be within Night also, and that no body may be by, but his Majesty, and your Honour; And if His Majesty pleaseth to Pardon my Offences for the Time past, he shall find I will approve my self very Loyal for the future; if not, I Resolve to give His Majesty no further Trouble, but to lie at his Mercy, let him do with me what he pleaseth. I purpose to spend much of this Day in Westminster-Hall, at least from Two of the Clock to Four. I beg your Pardon I send your Honour this by a Porter: I assure your Honour, it was for no other Reason, but because I would not have a Third Person privy to it; and that I might have the better opportunity to make good my Word to his Majesty, and to approve my self.

Your Honours most humble Servant,

THO: WALCOT.

Mr. Att. Gen. Swear Capt. Richardson. (which was done.)

Capt. Richardson. My Lord, On Sunday at Night, Mr. Walcot desired to speak with me, and he seemed very desirable to wait upon His Majesty, and unbosom himself to the King; Mr. Attorney said, I should give him Notice, to prepare himself for his Tryal: which I did, and told him, He should want nothing to prepare himself for his Tryal. Yesterday Morning his Son came, and I sent my Clerk to stand between them, and he had prepared this little Paper tyed close with a Thread, which my Man told me he did intend to give his Son; and he desired me, since I had Discovered it, I would make no use of it. The Letter was to Captain Tracy, that was his Land-lord, to speak to Coll. Rumsey, That he would be tender of him; and tell him, He had ground enough to serve the King upon other Men: and also to speak to Mrs. West, to desire the same thing of her Husband. The last Words of the Note were, If you cannot be private, leave the Issue to God.

L. C. J. Mr. Walcot, Have you any thing to say for your self, against this plain Evidence?

Capt. Walcot. My Lord, They have taken a great deal of pains, and made long Speeches, though very little of them relating to me, though too much. Coll. Rumsey tells your Lordship of a Design they had to Assassinate the King, and carrying on a War, or something like it, when I was out of the Kingdom; That at Mr. Sheppard's House they drew up a Declaration; and that upon Mr. Trenchard's saying, things were not ready. This was before I came into England: and he says, This was agreed at Mr. West's Chamber before I came out of Holland: That Rumbold undertook it. Then he says, That after I came over, I undertook to

Charge the Guards while the King was Killing. *My Lord*, That was a very improbable thing: for I look upon it, that there is no difference between killing the King, and securing his Guards. These Gentlemen, by what they have said, do sufficiently convince the Court, and all that hear them, that they are sufficiently dipp'd themselves. Here they Combine to take away my Life, to save their own. Then they tell you, That *Mr. Goodenough*, and *Mr. Rembold* brought Notes about Men that were to Assassinate the King; but they do not tell your Lordship I was privy to any of these Notes; nor that I knew any of them. It's in it self very improbable, That I would ingage in so desperate an undertaking with Men I never saw, nor heard of in my life. Then he tells you, That *Mr. Ferguson* had been at a place where I was, & there they inquired, what *Mr. Goodenough* had done: and withal, they told you, They met at my Lodging; now that their meeting was at my Lodging, was by *Coll. Ramsey's* appointment, I knew nothing of it. Most of these Meetings were by *Coll. Ramsey's* Appointment, or *Mr. West's*: I accidentally came amongst them sometimes, but all my business was, only to hear News; nothing was agitated concerning Killing the King, or Levying of War, more or less, as I know of. I must confess, I did hear that there was a Design by a great many Lords, and Gentlemen, and others, for Asserting of their Liberties and Properties, but I was never in any Consultation with them, or any Message to them; nor I never saw one of these Lords, that I know of, that are said to be concerned. Therefore I say, 'tis very improbable I should be so far concerned, as they seem to represent it; they met at the Five Bells, they allow themselves I was not at that meeting. For *Mr. Keeling*, he does not at all Charge me. What I said to *Mr. West*, relating to the business he talks of in *October* last, that, *my Lord*, is out of doors in point of time; I pray God forgive him for what he has said, I can't say more than I have.

L. C. J. Pray where do you live? Where is your Habitation?

Capt. Walcot. My Habitation is in *Ireland*, my Lord.

L. C. J. Pray, what do you here?

Capt. Walcot. I was invited by my Lord *Shaftsbury* to go Governor to *Carolina*.

L. C. J. That Design was a great while ago frustrated.

Capt. Walcot. *My Lord*, it was some while before I came over, and so my Lord gave his Commission to another. But being in *England*, my Lord *Shaftsbury* invited me to go to *Holland* with him, which I did; and when he dyed, I came to *London*; I had not been here a Fortnight, but I fell ill of the Gout, and that continued Three months: Another thing was, my Son was here, and I designed to Marry him, and make Provision for my younger Children. *My Lord*, I have a competent Estate, I hope it is no great Crime for a man of an Estate to be here.

L. C. J. You confess, you heard some discourse of these things; What made you to frequent their company, when you heard these things?

Capt. Wal. It was my folly to do it.

L. C. J. Ay, but you are to understand, that Folly in these Cases is Treason.

Capt. Walcot. I conceive, *my Lord*, 'tis only misprision of Treason. I did hear of a great deal that these Gentlemen have said, and that there would be an Insurrection; but I had no hand directly, or indirectly in it; nor did it enter into my thoughts, either directly or indirectly, the Death of the King. When some Gentlemen have talked to me of it, I Abominated it, and told them, it was a scandalous thing, a Reproach to the Protestant Religion: for my part, I had Children would bear the Reproach of it, and I would have no hand in it.

L. C. J. Look you *Capt. Walcot*, That you did deny to do the Fact, to Assassinate the King, that is very true, they say so, that you did always deny it; for you stood upon this point of Gallantry, a Naked man you would not Assassinate. And then you talk of misprision of Treason: for a man to hear of Treason accidentally, or occasionally, and conceal it, is but misprision: but if a man will be at a Consult where Treason is hatched, and will then conceal it, he is Guilty of Treason therein; therefore do not mistake your Case. So that your Point of Law fails you, and every thing fails you in this Case. It appears plainly by them, That you were not only Privy to the Consult as an Auditor, but as an Actor; you chose your Post, and upon this point of Gallantry you would venture your self, not upon a Naked Man, but upon persons that would Oppose you.

Capt. Wal. Certainly no man that knows me, would take me for such a very fool, that I would kill the Kings Guards; as if I were not sensible, that was equal Treason with the other.

Mr. Att. Gen. Ill men are always fools.

Capt. Wal. 'Tis clear they have laid their heads together, they have contrived to take away my Life to save their own; 'tis plain enough.

L. C. J. There is nothing more reasonable, nothing more just in the World, than to make use of some Traitors to discover and convict the others, else would Treason be hatched securely. There is no body capable (where Treason does not take effect) of making an Evidence in such a Case, but some of you that are the Conspirators. You do not publish it at the *Market-Cross*. And if you could gain but this point, that none that are concerned with you in the Conspiracy should

should be Witnesses, it would be the securest thing in the World, to hatch Treason. For you would be upon this point. Either it shall take effect, and then 'tis too late; or if it do not, and the Conspirators are not to be believed, then I am secure no body in the World can convict me.

Jury. We desire he may be asked what he says to the Letter.

L. C. J. Well, what say you to it? You have made proposals you will Discover others, and you will give intimation to the King of the measures the rest of the Conspirators were taking in Ireland, and other places; upon what design did you write that? And what induced you to it?

Cap. Walc. My Lord, I have told your Lordship, that I have heard a great many discourses relating to that thing, and heard it mostly by Mr. *Ferguson*, with whom I had a very great intimacy, and I did according to my promise give that account of it; but if his Majesty would not believe me, I can't help it; but the King was not pleased with me, because I could not descend to particulars. And I could not, because I never had been in their Company, nor knew nothing, but what I had once by a private hand; I dealt ingenuously and truly with the King, and told him what I knew.

L. C. J. Pray observe the Contents of your Letter. You made this proposal, That you being in the Procuration, you were one of the fittest men to understand and spell out the measures of the other persons. By this it is plain, you took your self to have an intimacy, and some Intrigue with the other persons that you thought were impeached. Your Letter does import that you had such an interest with those persons, that they would have communicated their Counsels to you.

Cap. Walc. My Lord, I never spake but with Mr. *Ferguson*, who was a man they did much confide in; and I knew very well that by my interest in Mr. *Ferguson*, I should have an interest in the rest. But truly whether the Duke of *Monmouth* be there, or not, I know not. I do not know him if I meet him. I was never at any Consult, never at any of these debates.

L. C. J. What did you mean by this, That this was your first crime? you knew what you was charged with, it was for High Treason.

Cap. Walc. My Lord, 'Tis my first crime. My Lord, I have heard there was an Insurrection intended, I have heard of the persons that were to carry it on; I did look upon this as a misprision of Treason; but that I ever acted in it, or intended it, I utterly deny.

L. C. J. The last Question is, Whether you have any Witnesses?

Cap. Walc. I have only a young man or two, if he be here, to prove the time that I was ill of the *Gout*, and therefore it is improbable I should be so far concerned.

L. C. J. I must tell you before-hand, that an argument from the Topick of probability, will do you but little Service, when there is positive Evidence against you. This it will import you to make a little Answer too, if you can, What you meant by your application to Col. *Ramsay*, desiring Cap. *Tracy* to speak to him and Mr. *West*, What do you mean by that?

Cap. Walc. My Lord, would not any man in my circumstances, desire a man to deal tenderly with him?

L. C. J. Well, is this young man come in? Come Sir, what have you to say on the behalf of the Prisoner at the Bar? Or will you ask him any Questions?

Cap. Walc. Only about what time I fell ill of the *Gout*, and how long I continued so.

L. C. J. Do you know about what time he fell ill of the *Gout*, and how long it continued?

Wit. My Lord, I can't certainly remember the time, but I believe it was about three months; I can't tell certainly when it began.

Cap. Walc. My Lord, It is very improbable, that when I was not able to put a Shoe on, nor wear a Boot, I should engage in so hazardous and desperate an undertaking.

L. C. J. Have you done Sir?

Cap. Walc. Yes, my Lord.

Mr. Sol. Gen. May it please your Lordship.

Cap. Walc. The *Jury* will take notice, here are four men to save their own Lives, Swear me out of mine.

Mr. S. Gen. May it please your Lordship and you Gentlemen of the *Jury*, The Evidence you have heard has been very long, and I observe that Cap. *Walcot* has complained of it; it has been delivered mostly in general terms, and is afraid you should not apprehend it aright, to see those parts wherein he is concerned, but mistake what is said in general, to be spoken against him; I will therefore do him the justice as to recapitulate that part of the Evidence that does immediately concern himself. It has been very full, and given by every one of the four Witnesses that have been produced against him, besides the Letter under his own hand, which is twice as many more.

The first Witness I shall remind you of, is Mr. *West*, tho not produced first, yet because his Evidence goes further backward; his acquaintance began with him in last Summer Vacation, he became soon intimate with him, and Cap. *Walcot* did unbosom himself, and tell him that there was a design to make an Insurrection; that it was my Lord *Shaftsbury's* design that he was to be

The Tryal of Captain Walcot.

an Officer, I think he said a Colonel of Horse; he invited Mr. West to partake with him in that design, and did propose to him the advantage of a Command in the Army; but he not being qualified, declined it. He tells you further, that he did acquaint him, there was a design to Assassinate the King; and 'tis easy enough to be believed; if there was one designed, the other was too. And you see all along the only dispute was, whether the Assassination should be first, or follow; for to raise Arms against the King, is directly to Assassinate the King; for it cannot end any other way with security to those that raised it. He told Mr. West he would not be concerned directly in the Assassination; but in the Insurrection he would; he was persuaded to come in; this was last October discoursed with Mr. West, they were to rise in November. Then Col. Rumsey comes in, and he tells you that there was a design to rise in November. The Lord Shaftsbury sent him to persons concerned in the Conspiracy to know in what readiness it was; but they being disappointed of men, whom they expected to rise in the Country, they did defer it at that time; at which my Lord Shaftsbury being concerned, went into Holland, and I think the Prisoner himself hath told you he went with him. The design was not then laid aside, but still carried on, the most material man, Mr. Ferguson, being in Holland, there was some little stop put to it, that is, to the swift progress of it; & therefore he was sent for over to manage it, as being the only man, in whom all persons had confidence. When he comes over, he brings Cap. Wal. along with him, Mr. Ferguson meets at Mr. West's Chamber, this Mr. West and Col. Rumsey give an account of, they both swear it. Several meetings there was, in which Cap. Wal. was not, and possibly at those times he might be sick of the Gout, and that might occasion his not being there. But afterwards, both tell you that Cap. Walcot did meet at Mr. West's Chamber, and there was debated particularly the Assassination of the King; and it was agreed to be at Rombalds house called the Rye, looking upon it as a very convenient place; as those that know it say, there being a narrow passage that it was easy to assault, and hard for persons to escape, and with 40 or 50 men, thereabouts; it was a design very likely to have succeeded. Cap. Walcot's share in this, was not directly the Assassination of the King, that he would not be concerned in, being a Soldier, it was beneath him to do that; but his part was to fight the Guards, he looked upon that as the more honourable employment; men that were armed, to engage them. This is proved both by Mr. West and Col. Rumsey.

In the next place, Gentlemen, when this did not succeed, but was prevented by the great Providence of God Almighty, as you have heard, they carry on the design still, and take it into their Councils, and resolved to carry it on, either at Windsor, or in his passage from Windsor to Hampton-Court; but no place was certainly fixed upon; and I think the latter resolution was, that it should be done at the Bull Feast, an entertainment that was designed here in the Fields. Now Gentlemen, while this was carrying on, it was necessary to carry on the other part too, that is the Insurrection; and that, Cap. Walcot is all along concerned in. He is present at the meetings in the Taverns, where they discoursed concerning raising men to secure the King. This is Mr. Bourne's Evidence, That at the Dragon-Tavern on Snow-Hill, there they met to consult to secure the King and the Duke. That he was present at the meeting in London, this is sworn by all, by Col. Rumsey, Mr. West, & Mr. Bourne, where Goodenough was to give an account what success he had in the list, made of dividing the City in several parts, and raising men out of every division, and Cap. Walcot met for to know what progress they had made in it. Gentlemen, every one of these are overt-Acts to declare his intention to kill the King, and are all High-Treason.

The Gentleman at the Bar cannot attempt to mitigate his Offence, by saying he would not directly Assassinate the King, but would be the man to assist in raising Arms; this make him equally Guilty. To conspire to raise Arms against the King, certainly that is as great a Declaration of his Imagination of his heart to kill the King, as any thing in the world. And this being proved upon him, there is no room for any Objections for him to make; some he hath made, not worth the mention; but because they are those he thinks fit to put his life upon, I will take notice of them to you.

He says the Witnesses are not to be credited, because they have been concerned in the same Conspiracy.

Gentlemen, Because they have been concerned, therefore they are to be believed; for who should know this, but those that were so concerned? I think, Gentlemen, there is no good man, no honest man would desire a better Evidence, for better Evidence could not have been had, unless the thing had taken success, and I am sure that is far from the heart of any man, that has the heart of a Christian, to wish. Does he pretend to intrap these Witnesses in any contradictions? Does he pretend to say that these Witnesses have consulted together to make up this story to accuse him for his life? There is nothing pretended of it, but on the contrary he owns he met these men; but the end of his going there, was only to hear news. I thought that had not been the proper place to hear News in; certainly no man that comes there, would have been admitted merely for curiosity; certainly he must bring a mind to accompany them in all their Villany; but his own confession you have for that. I think he hath hardly confidence to deny, but he was at several Consults for raising of Arms at Mr. West's Chamber. You were when Goodenough gave an account, at the Green-Dragon Tavern. You were where discourses were of raising Arms to secure the King, and nothing he has said Gentlemen, to clear himself.

Gentlemen,

Gentlemen, Here is that above all Evidence; here is almost the Confession of the Prisoner, the Letter of his own Hand. That Letter (when he see his Name in the Proclamation) acknowledges it, it is his first Crime he says; what was that Crime? he was proclaimed as a Traitor: He says in his Letter, that his Life was at the King's Mercy, that if his Death would do the King more Service than his Life, God's Will be done. That if his Majesty would admit him to come in, and use Mercy, he would tell all he knew concerning England, Scotland and Ireland, which he thought would be more material than any thing that another Discoverer could tell. This shews he hath a deeper Hand than any of these Men that have given this Evidence: You see they accuse themselves, they confess this, and 'tis a great Mercy they have so done, for all your Lives and Liberties in the Person of the King are preserved; and God be thanked, that you are here this day to sit in Judgment upon that would have deprived you of them.

L. Ch. J. Look you, Gentlemen of the Jury; Here is the Prisoner at the Bar indicted of High Treason, and 'tis for conspiring the Death of the King, and for endeavouring to raise Arms within his Kingdom against him. You hear he denies himself to be Guilty; you have heard the Evidence, and this does plainly appear upon what you have heard, that there was a dangerous and desperate Plot upon the King, to have destroyed him, that is most certainly plain, the Prisoner himself confessed it, that there were several Consults and Meetings concerning it; and that this had a great Progress from time to time, for near half a Year is very plain; that he was at many Consults is very certain; that there was a Design to raise an Insurrection and War within this Nation, is as plain by them all; it was designed the last Winter to have done it. The Witnesses (who are certainly the Persons most capable of giving Evidence) tell you there were several times appointed, and still they were by one Providence or another disappointed. All of them tell you, there was a Design to kill the King and Duke at the Ry in Hertfordshire, as they came from New-Market: This is very plain too, That this Gentleman at the Bar knew of this; this he himself confesses, that he was at several of the Consults; and this he excuses it by, that that was but Misprision of Treason, if he did not undertake to do any thing. As to that, Gentlemen, we do tell you; The Law is, That those that are at a Consult for the killing of the King, or doing of a Traiterous Act, that this is in them High Treason, this being at the consulting of it. 'Tis true, it would excuse and mitigate the Fact, if they should come afterwards and discover it, it might settle them to the King's Mercy; but to be at a Consult upon a treasonable Design, to meet for that purpose, to hear the Plot laid, and a Design to take the King's Life, or to raise Arms against him, and to say nothing of this, this is down-right Treason, and 'tis not Misprision of Treason; his Law that he relies upon fails him there. 'Tis very plain of his own Words, he heard of this Conspiracy, and he kept it secret, and says nothing of it; and this he says is his Crime that he mentioned to the King; so he would mitigate it by saying, 'tis but Misprision of Treason. But without doubt the meeting at several times upon this Design, if he had promised and undertaken nothing in it, his keeping of it private, as he has done, makes him guilty of High Treason: so that out of his own Words, 'tis plain that he is Guilty.

But then, consider what two Witnesses positively prove upon him: They prove, that he did there deny to be any of them that should assassinate the King; thus says Collonel Rumsey, and thus says Mr. West; but he would be one of them that should fight the Guards, and he did undertake to fight the Guards, as both of them positively swear. This is done with Circumstances of overt Acts too, as the providing of Horses, and a Truck was to be prepared in order to it, and a Truck he did prepare; whether he did go down, that is a little dark, but he did agree to go down.

Gentlemen, 'Tis plain by what Mr. West said of him, that he had a Design formerly in my E. Shafisbury's time to have raised War; he had undertaken to be a Collonel of Horse under my Lord Shafisbury, and he offered Mr. West to be one of his Officers under him. This is a Design to raise War against the King, and declares it sufficiently. That which makes the Evidence further plainly and greatly clear, is a Letter, whereby he does submit to the King's Mercy, but proposes that himself is able to instruct the King in these matters, than any of those that had made former Discoveries; and therefore if his Majesty should think fit, he would make him a full Discovery, not only of things in this Kingdom, but of the Transactions with other Kingdoms, that is, Scotland and Ireland, in which he takes himself to be more capable of discovering to the King than any body else, because he was concerned with the Agents there; which shews this Plot hath gone a great way; this Design hath gone into other of the King's Dominions, and it is to be feared, 'tis larger than the King knows.

'Tis time to nip these Treasons when they are gone so far; certainly a more barbarous Design was never thought of by Mankind. We have had certainly as many Engagements to the King, as any Subjects ever had to any Prince whatsoever; he has done as many Acts of Grace, we have lived as peaceably, as any People under a Prince can ever expect to do; he hath shewed himself with as much Kindness, with as much Lenity, even to his very Enemies, as any Prince that ever we read of; the Preservation of our Religion, and the Laws of the Kingdom, our Laws and Liberties, and all our Happiness depend as much upon his Life, as they ever did upon the Life of any Prince, or ever can do; so that we ought all to be concerned, even to the last drop of our Blood, to preserve Him: but how this mischievous Design should enter into the Hearts of Men, to undertake to kill him in such villanous and barbarous a manner as this, may justly makes us astonished.

Gentlemen, You hear your Evidence, you have a very strong Evidence in this Case, and stronger, I think, than could be expected in the Case of Treason.

The Jury went out for about half a quarter of an Hour, and returned, and brought the Prisoner in, Guilty.

THE T R Y A L O F William Hone.

On Thursday, July 12. William Hone being set to the Bar, and after having held up his Hand, the following Indictment was read.

London. **T**He Jurors for our Sovereign Lord the King upon their Oaths present, That William Hone late of London Labourer, with many other Traitors, as a false Traitor against the most Illustrious and Excellent Prince, our Sovereign Lord Charles the Second, by the Grace of God of England, Scotland, France and Ireland King, his natural Lord; not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and seduced by the instigation of the Devil; and the true Duty and natural Obedience, which true and faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King do bear, and of right ought to bear, wholly withdrawing; and with his whole Strength intending the Peace and Common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move, and stir up; and the Government of our said Lord the King within this Kingdom of England to subvert; and our said Lord the King from his Title, Honour and Kingly Name of the Imperial Crown of this his Kingdom of England, to put down, and deprive; and our said Lord the King to Death and final Destruction to bring and put; the Second day of March, in the Year of the Reign of our Sovereign Lord Charles the Second, King of England, &c. the 35th, and divers other Days and Times, as well before as after, at the Parish of St. Michael Ballithaw, in the Ward of Ballithaw London, aforesaid, maliciously and traitorously, with divers other Traitors, to the Jurors aforesaid unknown, he did conspire, compass, imagine, and intend, our said Lord the King, his Supreme Lord, not only of his Kingly State, Title, Power, and Government of this his Kingdom of England, to deprive, and throw down; but also our said Lord the King, to kill, and to Death to bring and put; and the ancient Government of this his Kingdom of England to change, alter, and wholly to subvert; and a miserable Slaughter amongst the Subjects of our said Lord the King, through the whole Kingdom of England, to cause
and

and procure; and Insurrection and Rebellion against our said Lord the King to move and stir up; within this Kingdom of England. And to fulfil, and perfect the said most horrible Treasons, and Trayterous Compassings, Imaginations, and Purposes aforesaid. He the said William Hone, and many other Traitors, as a False Traitor, then and there, and divers other Days and Times, as well before as after, Maliciously, Traiterously, and Advisedly, He did assemble, meet together, and consult with divers other Evil-disposed and Discontented Subjects of our said Lord the King; to the Jurors as yet unknown, and had Discourse, and did treat of, and for the executing and fulfilling their Treasons, and Traiterous Compassings, Imaginations, and Purposes aforesaid. And that the said William Hone, (together with many other Traitors) as a False Traitor, Maliciously, Traiterously, and Advisedly, then and there, and divers other Days and Times, as well before as after, did take upon himself, and promise to be aiding and assisting in the execution of the Treasons, and traiterous Compassings, Imaginations, and Purposes aforesaid. And in providing of Arms, and Men Armed, to fulfil and perfect the said Treasons, Traiterous Compassings, Imaginations, and Purposes aforesaid. And to fulfil and bring to pass the said most horrid Treasons, and Traiterous Compassings, Imaginations, and Purposes aforesaid, he the said William Hone (with many other False Traitors) as a False Traitor, Maliciously, Traiterously, and Advisedly, then and there, did procure and prepare Arms, to wit, Blunderbusses, Carbines, and Pistols, against the Duty of his Allegiance, against the Peace of our Sovereign Lord the King, &c. and against the form of the Statutes, &c.

Cl. of Cr. How sayest thou, *William Howe*, art thou Guilty of this High-Treason whereof thou standest Indicted, or not Guilty?

Hone. In some measure I am Guilty.

Capr. Richardson You must say, Guilty, or, Not Guilty.

L. Cb. Just. You must plead to this, and the way is to confess all, or deny all.

Home. I know nothing of the Arms.

L. Ch. Just. Are you Guilty of the Treason, in conspiring the Death of the King, and providing of Arms for that purpose?

Home. I never provided Arms, I am Guilty of the Conspiracy.

L. Ch. Just. We can take notice of none of these odd kind of Words you talk of, but either plainly, Guilty, or not Guilty.

Hone. My Lord, I can truly say I am not Guilty, for I know nothing of it.

L. Cb. Just. If you say so, you say as much as is required of you at present.

Hmc. In that understanding of it, I am not Guilty.

L. Cb. Just. Well, he says he is not Guilty.

Cl. of Cr. Culprit, How wilt thou be tryed ?

Hone. By God and my Country.

Cl. of Cr. God send thee a good Deliverance.

Friday, July the 13th, in the Morning, the Court being met, and Proclamation made.

Mr. Att. Gen. Set *Williams* Home to the Bar.

Cl. of Cr. You the Prisoner at the Bar, hold up your Hand.

Hme. I desire I may retract my Plea, I would plead Guilty.

L. Cb. Just. Do you confess the Indictment? *Hans.* Yes, My Lord.

L. Ch. Just. That is, that you did conspire the Death of the King, and in order to that, that you did provide your self with Arms to do this wicked Act.

Home. I never did that, My Lord, I never provided any Arms.

L. Cb. *Just*. What were you to have done?

Hone. That Deposition I gave before Sir *William Turner* is true.

L. Ch. Just. Tell us what you were to have done in this bloody Matter.

Hon. I was asked by one Mr. Richard Goodenough to go along with him, and I asked him whither, and he would not tell me, but I understood it was to kill the King and Duke of York, but he did not tell me the Place.

Sir Geo. Jeff. He does not confess tully, we desire to try him.

Le. Ch. J. Look you, you have pleaded not guilty to this Indictment, the King is willing, that if you be not guilty you shall not be condemned; and therefore he does desire and command the Evidence against you should be publicly given, that all Persons may see that you are not without Cause brought to Trial, therefore I swear the Jury, wot. v. d. 10

The Prisoner chal'enged none, but the Jury that were sworn were,

Nicholas Charlton.
Christopher Pitts.
Robert Beddingfield.
John Pelling.
William Winbury.
Thomas Seaton.

William Rutland.
Thomas Short.
Theophilus Man.
John Jenew.
John Short.
Thomas Nicholas.

Then Proclamation for Information, and for those that were bound by Recognizance to appear, was made.

Cl. of Cr. William Hone, hold up thy Hand (which he did.) You Gentlemen of the Jury, that are sworn, look upon the Prisoner, and hearken to his Cause, he stands indicted by the name of *William Hone*, &c. *prout antea*, in the Indictment, *mutatis mutandis* upon this Indictment he hath been arraigned, and hath thereunto pleaded, Not Guilty, and for his Trial, &c.

Mr. Jones. May it please your Lordship, and you Gentlemen of the Jury, the Prisoner stands indicted for the most horrid Treason that ever was endeavoured to be committed in this Kingdom, for traiterously conspiring to kill the King, and consulting how and in what manner it should be done, and for preparing Arms for the doing of it; we shall prove this to you, and then I hope you will find him Guilty.

Mr. Attorn. Gen. May it please your Lordship, and you Gentlemen of the Jury; the Part the Prisoner at the Bar was to act in this Treason, was the killing of the King; he was one of the Persons that were to be assisting in assassinating the King's Person. We will not trouble you with the large Evidence of the Rising, as we did Yesterday; but we will prove these things upon him; that he undertook to do it, that he was concerned with the rest of the Confederates: we shall shew you this is not a new thing, but he hath been an old Rebel; for this hath not been a new Project but hath been acting several Years. Five Years ago, when the King attended my Lord Mayor's Show, he undertook to kill him off of Bow-Church. We shall call our Witnesses, and prove it fully upon him. *Mr. Keeling*, and *Mr. West*.

Mr. Josias Keeling sworn.

Mr. Attorn. Gen. Do you tell my Lord and the Jury, what you know of this Prisoner at the Bar.

Mr. Keeling. The first time I saw him was at the Dolphin Tavern, when the Arms were agreed upon, he was there then.

Mr. Attorn. Gen. Who was there then?

Mr. Keeling. *Mr. West*, *Mr. Goodenough*, and him I remember particularly, and some others, whom I do not at present remember, and since that he hath taken notice of me.

Mr. Att. Gen. Was *Mr. Rumbold* there at that time?

Mr. Keeling. Yes.

Mr. Att. Gen. Pray at that Meeting tell the Jury what Discourse you had, for many of these Gentlemen are not the same that were on the Jury yesterday.

Mr. Keeling. It was discoursed then of the King's coming home from New Market the Saturday after the Fire. *Mr. West* told *Mr. Rumbold*, he heard the King would come home that Day, but says he, I don't believe it; says *Rumbold*, I hear he will come home on Monday. Says *Mr. West* to *Mr. Rumbold* then, How many Swan Quills, Goose Quills, and Crow Quills, and how much Sand and Ink must we have? I think the Prisoner at the Bar must needs remember it as well as I. It was agreed by *Mr. Rumbold*, I think I am exact in the Number, and he was by and heard all the Discourse.

Mr. Att. Gen. What did they mean by this?

Mr. Keeling. By Swan Quills, they meant Blunderbusses; by Goose Quills, Muskets; and by Crow Quills, Pistols; and by Sand and Ink, Powder and Bullet. He took Acquaintance with me after that Meeting (for I never saw him, as I know of, before) and

after

after some time he told me, he was one of them that was to go down to Rye to Assassinate the King. And since that, at a Coffee-house in *Swithin's Alley*, he told me, It would never be well, till the Black-Bird and the Gold-Finch were knocked on the Head; they being Terms I did not understand, I asked him what he meant, he said the King and Duke of York.

Sir Geo. Jeff. You are sure that is the Man?

Mr. Keeling. I am sure that is the Man; *William Hone*.

Sir Geo. Jeff. What, is that the Man that talked of the Black-Bird, and Gold-Finch?

Mr. Keeling. I am sure that is the Man.

Mr. Att. Gen. Now swear *Mr. West*.

Sir Geo. Jeff. If *Mr. Hone* has a mind to ask him any Questions, he may.

Hone. My Lord, this I deny: As to the Black-Bird, I own it; as to the Gold-Finch, I never heard a Word of it till this time.

Sir Geo. Jeff. You had only a design upon the Black-bird then.

Mr. West Sworn.

Mr. Att. Gen. Tell the Court what you know of the Meeting at the *Dolphin Tavern*.

Mr. West. I was there, and *Mr. Keeling* came in. There was several things said of *Swan Quills*, *Goose Quills*, and *Crow Quills*; but this Man did not come in till this Discourse was over; And I am sure I did not speak of any thing of this Nature before this Man in my Life. But *Mr. Goodenough* did undertake to provide the Men, and *Mr. Goodenough* said, he would try him, if he would make an attempt upon the Duke without the King. And I asked him, whether he had seen *Mr. Goodenough*? he told me he had; says he, he spoke to me about a little Job for the Duke. *Mr. Goodenough* said, he had spoke to him fully about the thing. And I saw him often in the Company of *Mannius*, that was designed to be another of the Assassins. He was at my Chamber once; says he, Master shall we do nothing? I think he used these Words, That if the Duke of *Monmouth* would be true, and appear, he could bring 50 or three score honest Men of to'ther side the Water to do the business: I asked him, what Business? says he, either a brisk Push (that I took for an Insurrection) for the two Brothers: says I, what Brothers do you mean? Says he, the Captain and Lieutenant: those were the two Terms they used since the *Van-berring* was Printed. I think he was a pretty honest Fellow before this time; he was deluded by *Goodenough*, I think, in the thing.

L. Ch. Just. (To *Mr. West*.) Do you come to justify these things?

Mr. West. My Lord, he hath been deluded basely, and I am sorry for the poor Fellow.

L. Ch. Just. It is a very unusual thing, for one in your Condition to use such Expressions in such a Case.

Sir Geo. Jeff. *Mr. West*, you have been deluded.

Mr. Att. Gen. Captain *Richardson*, and *Sir Nicholas Butler*.

Sir Geo. Jeff. I find he is not worthy of the Mercy the King hath shewed him.

Mr. West. It was a Word I put from me unawares.

Sir Geo. Jeff. My Lord, We will give you an account of a design this Man had long ago to kill the King.

Sir Nicholas Butler Sworn.

Sir Nicholas Butler. My Lord, I know the Prisoner at the Bar very well, I have known him many years, I have always known him guilty of Plotting and Contriving, and ready upon all occasions to embrace any thing for these Purposes laid to his Charge. Particularly, when *Sir Francis Chaplain* was Lord Mayor, his Majesty and the Duke stood at *Mr. Waldoe's House*, by reason of the *Angel-House* being shaken. And he came to my House, and told me, he would discourse me upon some private Matter; I called him into a Closet, and he told me, they had a fair opportunity to take off the King and the Duke at once; I told him, that would do very well, but how will you do it? Says he, we will do it with Cross-Bows, we are to be half a Dozen, and we will go into the Steeple, where there is a Window just opposite to the Balcony, and a great deal of Discourse we had to this purpose. My intent was to divert him from this Design, and told him how impossible it was they should escape the Foot-Guards, and Horse Guards, and multitude of People: And if he did not do the Business effectually, he would be undone, and all the Party. I rested satisfied he would have desisted upon this. But I knew the Principles of these Fifth Monarchy Men, and their Associates, and thought it not safe to trust to his bare say-so, that he would desist, but I went to the King and the Duke of York, into my Lord Chamberlains Chamber, where they came to me, and I gave them this Account, and desired them to set some to watch the place, and to search if any were got into the Steeple before they came, and there was one *Horsfal* appointed, that did accordingly watch them; but none came: Upon which some good-willers

to it have reported that it was a Sham-Business, but I think that was not well done. But the thing was real, and when he was examined before the King in the Secretary's Office, he did confess all these things that I charged him with.

Mr. Att. Gen. Sir Nicholas Butler, had you any Discourse of killing the King at this time?

Sir Nicholas Butler. No; at last they did understand I kept a Correspondence at Court, and then they would tell me no more.

Mr. Attorn. Gen. Since he was taken, what did he say about this matter?

Sir Nicholas Butler. About this matter he did acquaint divers, he was one that was to kill the King and the Duke.

Captain Richardson Sworn.

Capt. Richardson. Sir Nicholas Butler asked him in my Presence (I went along with Sir Nicholas when he examined him) as to this thing, how he was concerned? He said Mr. Goodenough came to him, and told him, he wanted Labourers; he asked him, for what? at last he did confess that Mr. Goodenough did tell him, it was to kill the King and the Duke of York; he did confess that he did agree to it, and that he would be one of them. He did likewise say, That after, at another Meeting, he was for killing the King, and saving the Duke; but Goodenough was for both.

Sir Nicholas Butler. He said he was to have 20*l.*

Capt. Richardson. He said he did not desire to stir, and Goodenough told him he should have 20*l.* to buy him Horse and Armour: And told us the Business of Rye; the Place he did not know, but said it was the place where the King was to be murdered. This is the substance of the Examination taken.

Sir Geo. Jeff. Tho the Prisoner at the Bar did partly make a Confession, yet for the Satisfaction of the World, my Lord gave us leave to call our Witnesses.

Capt. Richardson. That which Sir Nicholas says about the Cross-Bows, he did own, but—

L. Ch. J. What say you to this treasonable Design of yours, in undertaking to kill the King, in hiring your self out to be one of the Persons that should have executed this Traiterous Design, this horrid Murder, to have killed the King at the Rye?

Hone. I say, I did not know the place where, nor when, at the time it was proposed about the Rye.

L. Ch. J. But what do you say as to the undertaking to kill the King? the other is but a Circumstance, this is the material Point.

Hone. My Lord, I was drawn into it by Mr. Richard Goodenough.

L. Ch. J. You hear what Sir Nicholas Butler says of the Cross-Bows you designed to kill the King with, what say you to that?

Hone. I say, there was a Person told me of such a thing; and I told Sir Nicholas immediately of it. The Person that told me was a Shop-keeper, and I don't know him.

Sir Nicholas Butler. You named three Persons to the King, that were Confederates with you, but you came to me of your self.

L. Ch. J. Look you, your self was one of the wicked Undertakers in that Traiterous Design.

Hone. No, I did never design it, but I was told it.

L. Ch. J. Ay, that your self and some other good Fellows were engaged in the Design.

Hone. I was not engaged, only as I was told by a Fellow, that there was a Shop-keeper lived hard by that would do such a thing, and I immediately told Sir Nicholas Butler.

L. Ch. J. Come, 'tis in vain for you to mince the matter, for here is a full Evidence against you: The best you can do for your Advantage now, is to consider well with your self, and repent of this wicked Design. What Religion do you profess?

Hone. Religion, My Lord?

L. Ch. J. Ay, any or none?

Hone. My Lord, I hear several sorts of Men, sometimes Baptists, sometimes Independents, and sometimes the Presbyterians.

L. Ch. J. But regard none. Look you, Gentlemen of the Jury, you hear a plain case of a barbarous Murder designed upon the King, one of the horridest Treasons that hath been heard of in the World, to have shot the King and the Duke of York in their Coaches, as they were coming upon the Road. You have had full Evidence of this Man's being one of them; and therefore I am of opinion, that you must find him Guilty.

So the Jury brought the Prisoner in, Guilty, without going out of Court.

T H E

THE
T R Y A L
 OF THE
Lord RUSSEL.

July 13. 1683. *My Lord Russel was set to the Bar, within the Bar.*

Cl. of the Crown. William Russel, hold up thy Hand (which he did.) Then this Indictment was read, which is as followeth.

London. **T**He Jurors of our Sovereign Lord the King upon their Oaths present, That William Russel late of London Esq; together with other false Traitors, as a false Traitor against the most Illustrious and Excellent Prince, our Sovereign Lord Charles the Second, by the Grace of God of England, Scotland, France and Ireland King, his natural Lord; not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and seduced by the Instigation of the Devil; and the true Duty and natural Obedience, which true and faithful Subjects of our Sovereign Lord the King, towards him our said Lord the King do bear, and of right ought to bear, wholly withdrawing; and with his whole Strength intending the Peace and Common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move, and stir up; and the Government of our said Lord the King within this Kingdom of England to subvert; and our said Lord the King from his Title, Honour, and Kingly Name of the Imperial Crown of this his Kingdom of England, to put down, and deprive; and our said Lord the King to Death and final Destruction to bring and put; the Second day of November, in the Year of the Reign of our Sovereign Lord Charles the Second, King of England, &c. the 34th, and divers other Days and Times, as well before as after, at the Parish of St. Michael Bassilhaw, in the Ward of Bassilhaw London, aforesaid, maliciously and traitorously, with divers other Traitors, to the Jurors aforesaid unknown, he did conspire, compass, imagine and intend, our said Lord the King, his Supream Lord, not only of his Kingly State, Title, Power, and Government of this his Kingdom of England, to deprive, and throw down; but also our said Lord the King, to kill, and to Death to bring and put; and the ancient Government of this his Kingdom of England to change, alter, and wholly to subvert; and a Miserable Slaughter amongst the Subjects of our said Lord the King, through his whole Kingdom of England, to cause and procure; and Insurrection and Rebellion against our said Lord the King to move, procure, and stir up, within this Kingdom of England. And to fulfil and perfect the said most horrible Treasons, and Trayterous Compassings, Imaginations, and Purposes aforesaid, he the said William Russel, together with other false Traitors, as a false Traytor, then and there, and divers other Days and Times, as well before as after, Maliciously, Trayterously, and advisedly, between themselves, and with divers other Traitors, to the Jurors aforesaid unknown, they did meet together, consult, agree, and conclude, and every of them, then and there, did consult agree, and conclude, Insurrection and Rebellion against our Sovereign Lord the King, within this Kingdom of England, to move and stir up; and the Guards for the Preservation of the Person of our said Lord the King, to seize and destroy, against the Duty of his Allegiance, against the Peace, &c. And also against the Form of the Statutes, &c.

Cl. of Cr. How sayest thou, art thou Guilty, or not Guilty?

L. Russel. My Lord, may I not have a Copy of the Matter of Fact laid against me, that I may know what to answer to it?

L. Ch. Just. My Lord, we can grant you nothing till you have pleaded. Therefore that which is put to you now is, Whether you say you are Guilty, or not Guilty?

L. Russel.

L. Russel. My Lord, I am not Guilty.

Cl. of Cr. Culpit. How wilt thou be tryed ?

L. Russel. By God and my Countrey.

Cl. of Cr. God send thee a good deliverance.

L. Russel. My Lord I thought a Prisoner had never been arraigned and tryed at the same time, I have been a close Prisoner.

L. Ch. J. For Crimes of this Nature, My Lord, we do it continually.

L. Russel. It is hard, My Lord.

Mr. Att. Gen. My Lord hath no reason to complain for want of notice, for since Monday seven-night he had notice of his Trial, and the matters alledged against him he had notice of, for Questions were put to him about this Matter, he hath been fairly dealt with, he hath had the liberty of Counsel to advise him; there hath been no sort of Liberty denyed him, which becomes any Subject to have in this Condition.

L. Ch. J. My Lord, I do not know whether you hear *Mr. Attorney*. He says your Lordship hath had a great deal of Favour shewn you already, in that you have been acquainted with the Crimes for which you are now indicted, that you have had a great deal of warning given you, that you have had the Liberty of Counsel, which hath not been known granted to any under your Lordships Circumstances. He says, he doubts not but your Lordship is prepared for your Defence, because you have had so much knowledg, and warning of the Time and Matter for which you were to be called in question.

L. Russel. My Lord, I am much to seek, I only heard some general Questions, and I have Witnesses, that I believe are not yet in Town, nor will be, I believe, till Night; I think it very hard I can't have one day more.

Mr. Attorney Gen. Munday seven-night your Lordship had notice.

L. Russel. I did not know the matter I was charged with.

Mr. Attorney Gen. Yes certainly, for I was with you my self, my Lord; and those Questions you were examined upon, were a Favour to you, that you might know what the matter was you were accused of.

L. Ch. J. My Lord, without the King's Consent we can't put off the Trial; if the King's Council think not fit to put it off, we can't grant your Lordship's Request in this Case.

L. Russel. I would desire a Copy of the Pannel of the Jury, that I might consider of it; for how else can I make any just Challenge? I thought the Law had been very favourable to Men upon their Lives; and therefore it had allowed People to have some little notice.

L. Ch. J. Hath not your Lordship had a Copy of the Pannel? I think your Lordship was allowed one, We gave Order your Lordship should have a Copy of the Pannel.

Mr. Att. G. We did indulge him so far, that he might have a Note of all the Men returned.

L. Russel. I never had a Copy of the Pannel.

L. Ch. J. It was the Fault of your Lordship's Servants then; for I gave Order for it my self. 'Tis such a Favour, that in regard a Man's Life lies at stake, we never did deny it, to my Knowledg. And therefore in this Case I gave order to the Secondary to deliver a Copy. I know the King did not design to be hard upon my Lord in his Tryal, but that he should have as fair a Tryal as ever any Noble Person had.

L. Russel. I pray I may have a Copy then.

Sir G. Jeff. If my Lord had sent his Agents, and it had been refused, there had been something in it.

Mr. Att. Gen. Secondary *Normansell* was with me, and I gave him my Allowance, tho it was not his Right.

L. Ch. Just. That my Lord may not be surprized, what think you of giving my Lord time till the Afternoon, and try some of the rest in the mean time?

Mr. Att. Gen. Truly, my Lord, if I could imagine it were possible for my Lord to have any Witnesses, I should not be against it.

L. Russel. 'Tis very hard.

Mr. Att. Gen. Do not say so, the King does not deal hardly with you, but I am afraid it will appear you would have dealt more hardly with the King: You would not have given the King an hours notice for saving his Life.

Secondary Troiman. I gave my Brother *Normansell* a Copy of the Pannel on my side, and hear that my Brother *Normansell* hath said that he delivered a Copy. Then Secondary *Normansell* was sent for, and the Court staid for him some time.

Mr. Atwood. My Lord, a Gentleman told me, he did not know whether it was fit, till he had consulted the *Attorney General*; afterwards I had a Copy as it stood then, not as it is now.

Mr. Att.

Mr. Astor. Gen. I desire my Lord may be asked who he sent for it?

Lord Ruffel. I did not send for it; I inquired, and they said it would be refused.

Mr. Attwood. No, the Gentleman had it with the fair Perriwig.

L. Ch. Just. It was delivered to your Servant, or Agent, what did you do with it?

L. Ruffel's Gent. Sir, the Gentleman gave me out of a Book some Names.

Sir Geo. Jeff. What did you do with them?

L. Ruffel's Gent. I writ them down, they were not perfect, I did not know what they were.

L. Ch. Just. Sir, you were to blame not to deliver it to my Lord.

L. Ruffel's Gent. I was not bound to deliver an imperfect thing to my Lord.

L. Ch. Just. Sir, you should have consulted your Lords advantage, so as to have delivered any thing for his good.

L. Ruffel's Gent. My Lord was in the Tower, I was not admitted to my Lord.

Mr. Astor. Gen. Did you give it to my Lady?

L. Ruffel's Gent. Yes, those Names I had, my Lady had.

Sir Geo. Jeff. How long ago was it?

Mr. Attwood. Tuesday or Wednesday last.

L. Ch. Just. (To Lord Ruffel's Servant.) Look you, Sir, when had you this?

L. Ruffel. I had no Pannel, I will assure you, delivered me; I had some Names of People that they said were usually on Juries.

L. Ch. Just. They were the Names of the Jury.

L. Ruffel. They were only the Names of them that were like to be of the Jury, no other Pannel came to me.

L. Ch. J. My Lord, there can be no other Copy given, but the same that was delivered; for your Lordship does know in this case, any Person accused, as your Lordship is, may challenge 35; and therefore there is a Return generally of 3 score, or 4 score, and these are returned in case of your Lordships challenge. When you have challenged so many as you please, then the 12 men that stand after your challenge are to be of the Jury: And therefore this is not like a Pannel made up by the Sheriff, in ordinary Causes between Man and Man; there they make a formal Pannel, from which they cannot depart, when that is once returned; but herein Criminal Cases, because of the Challenge, they return either 60 or 80: And I presume your Lordship was attended with the Names delivered.

Sir Geo. Jeff. How many Names was delivered? Mr. Attwood. Above 100.

L. Ruffel. I had nothing of a Pannel delivered to me, but some Names.

L. Ch. Just. There was never any formal Pannel delivered to any Person Accused: The Copy of it is in Paper always.

L. Ruffel. How can I know who to Challenge?

L. Ch. J. My Lord, the Copy of it is in your hands; your Lordship hath been deceived in this, by not understanding the true Nature of these things: if we were to give you a new one, we could give you but such an one.

L. Ruffel. I had no Paper from the true Officer.

L. Ch. Just. No, but from your Servant.

Mr. Astor. Gen. My Lord, you will have cause to complain, if they are not the same men we now shall call.

L. Ch. J. My Lord, That Paper will guide your Lordship in your Challenges.

L. Ruffel. My Lord, I did not mind it, I put it away. My Lord, with your Favour, I must needs insist upon having a Pannel, and that you will put it off till the Afternoon; I have a Witness that is not in Town. My Counsel told me it was never done, or very seldom, Arraigning and Trying at the same time; except in case of Common Malefactors.

L. Ch. J. Mr. Attorney, why may not this Tryal be respited till the Afternoon?

Mr. Astor. Gen. Pray call the Jury.

L. Ch. J. My Lord, the Kings Counsel think it not reasonable to put off the Tryal longer, and we can't put it off without their Consent in this Case.

L. Ruffel. My Lord, 'Tis hard, I thought the Law had allowed a pretty deal of favour to a man when he came upon his Life. How can I know to except against men, that I never heard or saw one of them.

Cl. of Cr. You the Prisoner at the Bar; those good Men that have been now called, and here appear, are to pass between you and our Sovereign Lord the King, upon your Life or Death, if you Challenge any of them, you must speak as they come to the Book to be Sworn, before they are Sworn.

L. Ruffel. My Lord, may not I have the use of Pen, Ink, and Paper? Court. Yes, my Lord.

L. Ruffel. My Lord, may I make use of any Papers I have?

L. Ch. Just.

L. Ch. Just. Yes by all means.

L. Russel. May I have some body write to help my memory?

Mr. Att. Gen. Yes, a Servant.

L. Ch. Just. Any of your Servants shall assist you in writing any thing you please for you.

L. Russel. My Wife is here my Lord to do it.

L. Ch. Just. If my Lady please to give her self the trouble.

Mr. Att. Gen. My Lord, you may have two Persons to write for you if you please.

L. Russel. My Lord, here hath been a name read, that I never saw in the List of the Jury I had, I heard Sir *Andrew Foster* called.

L. Ch. Just. He is not called to be of the Jury.

Cl. of Cr. Call *John Martin*.

He appears.

L. Russel. Are you a Freeholder of 40 s. a year, I hope none are allowed in the Pannel, but those that have Freeholds?

L. Ch. Just. There is no Pannel made in *London* by Freeholders, we have very few Freeholders capable of being impannell'd, because the Estates of the City belong much to the Nobility and Gentlemen that live abroad, and to Corporations: therefore in the City of *London* the Challenge of Freeholders is excepted.

L. Russel. My Lord, I thought it had been always so, and the Law had been clear in that Case throughout *England*, that no man ought to be tryed for his life, but by those that have Freeholds. My Lord, I remember I read the Statute of 2 *H. 5.* where 'tis positive, that no Persons shall be Judged in cases of life and death but by those that have 40 s. a year.

L. Ch. Just. My Lord, that Statute extends not to this Case. Read the Statute.

Cl. of Cr. Whereas Perjury is much used in the City of *London* upon Persons, &c.

L. Ch. Just. Is this the Statute your Lordship has read?

L. Russel. This is not in the case of life and death.

L. Ch. Just. It is not, my Lord.

L. Russel. That that I read is positive. And if your Lordship will not allow of it, I desire my Counsel may come and argue it, for 'tis a matter of Law, and I can't argue it, whether the Jury are not to be Freeholders.

Mr. Ser. Jefferies. There is nothing mentioned in that Statute with relation to the City of *London* indeed, but the necessity of the thing requires it.

Mr. Att. Gen. It will not be material, 'tis a collateral point, for most of the Jury have Freeholds.

L. Ch. Just. Do you allow the Exception?

Mr. Att. Gen. No, my Lord.

L. Ch. Justice. Therefore we must, if my Lord stand upon it, hear his Counsel. My Lord, we will hear your Counsel; what Counsel do you desire, my Lord?

L. Russel. The Counsel that were allotted me.

L. Ch. Just. No, you must have Counsel assigned by us. The Counsel that was assigned elsewhere signifies nothing.

L. Russel. *Mr. Pollexfen*, *Mr. Fiolt*, and *Mr. Ward*.

The said persons were called, and came into Court.

L. Ch. Just. (To the Counsel.) Gentlemen, my Lord here desires Counsel, you are here assigned as Counsel for my Lord *Russel* that is at the Barr, 'tis concerning a thing where-in he doubts the Law, he would except to the Jury upon this account, to the Poll, because they have not Freehold within the City of *London*, and he desires you may be assigned his Counsel to make it out that this is a cause of Challenge.

Mr. Att. Gen. 'Tis a Case of Treason, *Mr. Pollexfen*.

Mr. Ward. We take it so.

Mr. Pollexfen. My Lord, Perhaps if we had more consideration of it we should speak more, but if your Lordship pleases to hear us what we can say; first, we take it, with submission, at Common Law a Freehold was necessary to make a man Jurymen. But that which falls out in this case is the Statute of 2 *H. 5. c. 3.* which Statute I suppose is here in Court, That Statute says this (if you please I will quote the substance of it) That none shall be admitted to pass upon any Inquest upon the Tryal of the death of a man, except he have Lands and Tenements of the yearly value of 40 s. Now we are here I think within the words of the Statute, and I take it to be no Question at all were we not in a City and County. I think this would be no question upon any Tryal in any County at large. The Statute does not make any exception or distinction between Cities and Counties at large, but the words are general, as I have opened them. My Lord, the Statute does also provide in cases of Freehold or 40 Marks. Now, my Lord, to prove this Statute extends to *London*, tho a City and County, there are other Statutes that have been made subsequent make it plain that it does

so extend. But before I speak to them, There is, *1 Inst. fo. 157.* that takes notice of this Statute, and speaks it generally that the Freehold ought to be in the same County, nor do I remember to have seen any Book that distinguishes between Counties at large and Cities and Counties. But Statutes that have been made concerning Cities and Counties are a plain declaration that this is meant of Juries both in Cities and Counties. I will mention the Statute 7 H. 7. c. 5. The substance of the Statute is this, It takes notice that there were Challenges in London for that they had not 40 s. per Ann. and that this Challenge was to be made in the Wards, which are the same with Hundreds in the Counties, so this Statute is made to take away the Challenge of 40 s. Freehold. This Statute of 7 H. 7. that takes away the Challenge in London for not having 40 s. is, with submission, a strong Evidence and Authority that it was before that time a good Challenge, for otherwise to what end should they make a Statute to take away the Challenge, unless it were before a good cause of Challenge. In the next place 4 H. 8. c. 3. that extends to Civil Causes in London, and says, That in London Jurors shall (but provides only for London in Civil Causes) be admitted in Civil Causes, that have goods to the value of 100 Marks. My Lord, if that first Statute, or the Common Law, had not extended to require Freeholds in London, then there would have been no need of this Statute that was made to enable men to be Jurors that had goods to the value of 100 Marks. So that we take it to be good Authority that by the Common Law Freehold was required in all Civil Causes. Then there is another Statute 23 H. 8. 13. and that will be a strong evidence to shew what the Law is, For the Statute says, in Cities and Burroughs, in Tryals of Murder and Felony, if a Freeman of the City of London is to be tried, the Freeman shall be upon the Jury, tho' they have not Freehold, and then there is a *Proviso*, that for Knights and Esquires that are out of the Burrough, tho' they are arraigned in the Burrough, that extends not to them, tho' in cases of Murder and Felony. As for this Statute, we take this sense of it, First that it does not extend to Treasons, for when it only names Murders, and Felonies, that makes no alteration as to Treason, therefore that stands as before: But if there be any alteration, that extends only to Freeman and Burgesses that are to be tried, but not to Knights and Esquires, so that if we were in a case of Felony and Murder, I think we are not concerned in this Statute, for we are no Freeman nor Burgess, but we are an Esquire, and therefore ought to be tryed by Freeholders: So that for the Law we relye upon these Statutes, that we have looked upon as strong evidence, that there ought to be in the Tryal of the life of a man, especially for Treason, Freeholders. First, if it were in Civil Causes, if this qualification be not in Jury-men then an Attaint would lye; the Penalty in an Attaint is, that their Houses should be pulled down, &c. This is provided by the Law, to the intent the Jury may be careful to go according to their evidence. 'Tis true, no Attaint does lie in Criminal Causes, but if so be in Civil Causes there be required Freeholders, and an Attaint lies if there be not, 'tis not reasonable to think but there should be as great regard to the life of a man, as to his Estate. Next, my Lord, I do not know any Law that lets any kind of qualification but this of Freehold, so that be the Persons of what condition or nature soever (supposing they be not outlawed) yet these Persons, if this Law be not in effect, may then serve, and be put upon the life of a man. These are the reasons, my Lord, for which we apprehend they ought to be Freeholders:

Mr. Holt. My Lord, I would desire one word of the same side: We insist in this case upon these two things; First, we conceive by the Common Law, every Jury-man ought to have a Freehold, we have good Authority for it, *Cokes first Institutes*, but if that were not so, I think the Statute *Mr. Pollexfen* hath first mentioned, 2 H. 5. c. 3. to be express in this point. My Lord, the Statute in the Preamble does recite all the mischiefs, it says great mischiefs, ensued by Juries that were made up of Persons that had not Estates sufficient; in what? As well in the case of the Death of a Man, as in the case of Freehold between Party and Party: The Statute reciting this mischief, does in express words, provide two Remedies for the same in these Cases: First on the Life or Death of a man, the Jury or Inquest to be taken, shall have 40 s. per Ann. and so between Party and Party 40 Marks, so that this being the Tryal of the Death of a Man, it is interpreted by *Stamford* 162 a. That is in all Cases where a Man is Arraigned for his Life, that is within the express words of the Statute. Besides this Exposition that hath been put upon the Statute, my Lord, it does seem that the Judgment of several Parliaments hath been accordingly in several Times and Ages. My Lord, to instance in one Statute that hath not been mentioned, and that is the 33 of H. 8. c. 23. That does give the King Power to award Commissions of *Oyer and Terminer*, for Tryals in any County of England: And that (says the Statute) in such cases

Cases no Challenge to the Shire or Hundred shall be allowed; that is, you shall not Challenge the Jury in such a Case, because they have not Free-hold, are not of the County where the Treason was Committed; but that upon the Tryal Challenge for lack of Free-hold of 40s. a year shall be allowed, though it alters the manner of Trying Treason by the Common Law; so that, my Lord, here is the Opinion of that very Parliament; that though it took away the usual method of Tryals, yet it saves the Prisoners Challenge for want of Free-hold. Now indeed that Statute is repealed; but I mention it as to the *Proviso* that it shews the Judgment of that Parliament at that time: My Lord, those other Statutes that have been made to Regulate Cities and Towns Corporate, why were they made? 33 H. 8. That no Free-hold should be allowed, that shews that 2 H. 5. did extend to these Cases. But my Lord, these Statutes that shew the Judgment of the Parliament, sufficient to our purpose, do not extend to this Case; the Statute goes only to Murders and Felonies, but not to Treasons: And we are in the case of a Penal Statute, and concerning the Life and Death of a Man, which ought to be taken strictly, it ousts the Prisoner of a Benefit; and by parity of Reason, if Treason be not mentioned, your Lordship can't by Equity extend it to it, when it only mentions inferior Offences, and takes away the benefit in lower Cases: Like the Case of the Bishop of *Winchester*, where the Statute set down Dean and Chapters, and other Ecclesiastical Persons, it shall not extend to Bishops, because it begins with Persons of an inferior Nature: No more shall Murder and Felony extend to Treason. But, further the Statute only concerns Freemen, for there is an express Proviso in the Case: for in case any Knight, or Esquire come to be Tried in the Place, he has his Benefit as before. My Lord, we are in this Case, as in the Case not mentioned in the Statute, we are not a Freeman of *London*. My Lord, there is another thing 7 H. 7. c. 5. Why there was not only requisite at the Common-Law, that the Jurors had sufficient Free-hold, but it was required it should be in the Hundred; and Free-hold in the Wards in the City is the same with Free-hold in the Hundreds in the Country: So that the want of Free-hold in the Hundred, was a good cause of Challenge. So that I think it will hardly be denied, but that a Jury that passes upon the life of a Man, ought by the Law, by the Statute, and by the Judgment of the Parliament, to have Free-hold. Where is there then any Statute whatsoever that makes a difference in this Case, between *London* and other Counties? We are in the case of Treason, we have taken our Exceptions, and on behalf of the Prisoner at the Bar we pray the Challenge may be allowed.

Mr. Ward. My Lord, I shall be short, because *Mr. Pollexfen* has observed these things so particularly already. I observe the Statute of H. 5. is a general Statute, and extends throughout the Realm: Now when the thing is thus general, there is no room to except particulars. And in this case 'tis within the very words of the Law, if the words be so generally penned in the negative, then we conceive there is no construction to be made upon them, unless some subsequent Parliament alter it. *Coke's Institutes* 157. where 'tis said in Treason as well as any thing else, upon H. 5. there shall be Freeholds. If they have provided in Civil and other Criminal Causes, it were strange that this should be *Causa omiffus*, but there is no construction against a negative Law. For the Parliament taking care of the City of *London* (as the subsequent Statutes say) that he that hath 100 Marks shall pass in Civil Causes, and then it says in Murders and Felonies, and that only confined to the Freemen of the place, does sufficiently explain the Law, where 'tis not altered by any subsequent Act, therefore I desire the Challenge may be admitted.

Mr. Att. Gen. My Lord, these Gentlemens Foundation is not good, for they prove it not by any Books, that at Common-Law it was requisite for a Juryman to have Free-hold. My Lord, I deny their Foundation, there is no such Law, and at this day in all Criminal Cases where the Statute does not direct it, as for Riots and other Informations for Misdemeanour, there is no Law restrains them, and they may be tried by any men they have no exception against. Then 2 H. 5. says, None shall be admitted to pass upon the death of a Man, (I take it to extend to all Capital matters, though it is pretty odly expressed; for when a Man is accused of other Felonies and High Treasons, 'tis of the death of a man) unless he have Lands or Tenements, of the yearly value of 40s. But I will take it as these Gentlemen do at this Time, it not being so at Common-Law, nor in other Criminal Cases, but what are provided for by the Statute: As to other matters of Felony and Murder, no doubt there these Challenges are to be taken upon the Statute, but not for Treason, because the Statute of Queen *Mary* does expressly repeal that

that Statute; and no Statute since takes away the force of that of Queen Mary; that all Tryals for Treason shall be as at the Common-Law; and according to this the constant practice in all Cities (not only London) where Persons have been Indicted for High Treason hath been. There was never any such thing pretended: Most of these Gentlemen have Freeholds, but we would not have this point lost to the City of London; so that the Statute they speak of, and the Interpretations of the several other Statutes too, are to no purpose; for we say by Common-Law all Causes might be Tried by any Persons, against whom there was not sufficient Cause of Challenge; and the Common-Law is by that Statute restored in this point.

Mr. Sol. Gen. My Lord, I have little to say; *Mr. Attorney* hath given a true Answer to it, the Foundation does fail them. It was not necessary at Common-Law, for a Jurymen to have Freehold: but then they must shew you, my Lord, it is altered, and made necessary. The Statute of *H. 5.* does not seem to extend to Treason, but if it did, 'tis now out of doors, by that of Queen Mary, whereby all Tryals of Treason are reduced to the Common-Law. This is that we answer, they fail in their Foundation, they do not make it out, that it was necessary for a Jury-man at Common-Law to have Freehold.

Sir Geo. Jeff. My Lord, I confess they have cited several Acts of Parliament, and upon them lay their Foundation, and draw Inferences from them: But they will find, that in several Acts of Parliament which they have quoted, there is a particular regard had for the preservation of the constant Usage and Custom for Tryals within the City of London. That notwithstanding several Acts of Parliament have in other places ascertained the value of Jurors; yet they had still an Eye that the City of London should continue in its Usages. I think it will be necessary to put you in mind of the Case of the City of Worcester. It would be very hard, say they, because an Attaint does not lye in Criminal matters; if you intend by that to have People of Ability, 'tis well known, that the ablest People in the City of London, have scarce any Freehold in it; for that most of the Inheritances of the City of London remain in the Nobility and in Corporations. Now in the Case of my Lord Russel, he hath a peremptory Challenge to 35, and I think I may adventure to say, there can scarce be 35 more that can call themselves Freeholders in London; consider the Consequence then, Treason should be committed in the City of London, and there would not be enow in the City of London to try it. In the Case of the *Quo-Warranto* brought against the City of Worcester, to know by what Warrant several took upon them the Offices of Aldermen; the Gentlemen at the Bar objected that it was reasonable that no Freehold should be determined, but by Freeholders. But the Judges of the *Kings-Bench*, (the Court being full) for the necessity of the thing, lest there might not be sufficient Freeholders in the City, having sent one of the Judges of that Court to your Lordships of the Common-Pleas, for that Reason did agree the Challenge was not good. I know these Gentlemen will please to remember the Case; so that I say, as in one Case we ought to be tender of the Life of the Prisoner, so we ought surely to be tender of the Life of the King, otherwise it may so happen, that the Kings Life may be encompassed, and Treason committed in the City, and there would be no way in the World to Try it; therefore we pray for the King the Challenge may be over-ruled.

M. North. My Lord, it is the practice to make the *Venire facias*, without mentioning Freehold, for it does not Command, that they return so many men that have Freehold, but *probos & legales homines de visneto*; therefore at the Common-Law, those were good Inquests to Try any man that were not Excommunicated, nor under any Out-Law. 'Tis true, there are Statutes that say, all Jury-men shall have Freehold; but we say these Statutes do not extend to the City of London, but that it is governed by its own Customs; and we say it is the Custom that Citizens of Ability have been returned, that have no Freehold. But granting what we do not, but by way of supposal, my Lord, it does not extend to this Case, because Tryals are to be according to the use at Common-Law, by the Statute of Queen Mary, which does set them at large again; and that is the reason the Prisoner, in this Case, hath his Challenge for 35, and is in other Cases restrained to 20; so that we say, these men of Ability are good, and there is no Statute affects them.

L. C. J. *Mr. Pollexfen*, do you find any Judgment, that in Cases of Treason by Common-Law, they might except for want of Freehold? Have you any resolution in the Case?

Mr. Pollexf. I think there are Books that say, at Common-Law there must be Freehold.

L. Ch. Just. What, in Treason?

Mr. Pollexfen. No, my Lord.

L. Ch. Just. Unless you speak of Treason, you do not speak *ad Idem*. For I do take it that in Cases of Treason, or in Cases of Felony, at the Common Law, they had no liberty

ty to except to Jurors, that they had not any Freehold, but that at the Common Law any good and Lawful men might pass. Then take as introductive of a new Law the Statute of *H. 5.* I am of the mind that this Statute of *H. 5.* peradventure may extend to Treasons and Felonies; but when the Statute of Queen *Mary* comes and says, all Tryals shall be by such Evidence, and in such manner, as by common Law they ought to have been, I do not see how it is possible to make an Objection afterwards of this Nature. For, admitting this Act of Parliament of *H. 5.* had altered the Common Law, and given a Challenge, why then when the Statute of Queen *Mary* comes and sets all Tryals at large in the Case of Treasons, then certainly the Challenge is gone again, and I doubt you will not find one Exception in this case, ever since that Statute concerning the Jurys Freehold in Cases of Treason, but it hath generally passed otherwise, and there hath not been any ever excepted; I doubt it will be a very hard thing to maintain such a Challenge now. Here are my Lords and Brothers will be pleased to deliver their Opinions. It is a business of great consequence, not only for this Noble Person at the Bar, but for all other Persons.

L. Ch. Baron. I agree with your Lordship perfectly, but if the Counsel had laid a right Foundation that it had been so at Common Law, there had been much said; But I take it at Common Law there was no Challenge for want of Freehold, and I am induced to think so, for otherwise what needed the Statute of *H. 5.* been made? But whether it extend to Treason or no, I am not so clear. And if it did, it's wiped off again by that of Queen *Mary*, which reduces all to the Common Law Tryal.

Mr. Just. Wyndham. I am of the same Opinion: I conceive at Common Law, lack of Freehold no good cause of Challenge. 'Tis true, that Challenge is given in some cases by Act of Parliament, yet I doubt whether it extend to a thing of so high nature as Treason, for other Statutes have not mentioned any thing of Treason. But suppose 2. *H. 5.* did extend to it, yet it is very plain, the Statute of 1. and 2. Queen *Mary* hath set all at large again. They are to be good and Lawful Men, and I do not find that any thing of the lawfulness must be the Freehold. And therefore, I conceive this is no just Exception in this case.

Mr. Just. Jones. My Lord, I am of the same Opinion. I am of Opinion that the Common Law did not require Freehold to be a good cause of Challenge, in the case of Treason, and the rather, because at the Common Law a man that was indicted of High Treason, had liberty to Challenge, peremptorily, to the Number of 35. Persons. My Lord, if the Common Law be altered by the Statute of *H. 5.* yet I take it, that the Statute of 1. and 2. *Ph.* and *M.* does restore the Common Law in this particular point. For whereas there was a Statue of *H. 8.* to restrain the Prisoner to the Number of 20, for his Challenge, now the Statute restoring it to Common Law, the Prisoner hath his Challenge to 35, as he had before that Statute of *H. 8.* So I take it, the King shall have his privilege also to try a Prisoner for Treason, by Persons that have not Freehold.

Mr. Just. Chauncy. I am of the same Opinion. And truly the rather, because no President hath been offered of any such Challenge before, and many men have suffered, and sure if it could have been, many would have made use of it.

Mr. Just. Levins. I am of Opinion 'tis not to be allowed. I do not think my self driven to the necessity to determine now whether Freehold was a good Challenge at Common Law in point of Treason. I think the Statute of *Ph.* and *M.* hath restored the Tryals to the Common Law. What was the Common Law? The Common Law is the Custom of *England*, which is other in Cities than in Countries, and the Custom of *London* is part of that Common Law. So, tho it be a cause of Challenge in a County at large, yet it is not a cause of Challenge in Cities, where Freeholders are not to be found. Now that which satisfies me is, That this Custom is restored by the Statute of *Ph.* and *M.* Because never such a Challenge hath been. And it is known when 20 were tried for Treason together in this very place, and one of them a notable cunning Lawyer, and if such a Challenge were to have been allowed, no doubt he would have made use of it, but the Challenge was not taken, and if he had made such a Challenge, and it had been allowed, perhaps he could not have been tried: That was *Cook.* I have heard several Persons tried for Treason my self, and never heard it taken. Therefore I am of Opinion, that before any Statute was made in this case, It was the Custom in *London* to try without Freeholds, and since by the Statute of Queen *Mary* 'tis restored.

Mr. Baron Streete. I think there was no such Challenge at Common Law. The Jury were only to be *Probos & Legales homines*, and no more, till the Statute made it so, but there is a particular Reservation for Corporations. And certainly, if this should be admitted to be a good Challenge, tho' it were between Party and Party, there

there would be in some Corporations a perfect failure of Justice. So that without doubt at Common Law there was no such Challenge. As for the Statute of *H. 5.* 'tis gone by that of *Queen Mary*. If this were admitted within *London*, nothing would be more mischievous to this Corporation. Methinks we have been very nice in this matter, when the life of the King is at Stake, and all the Customs and Priviledges of the City of *London* seem to be levelled at in this point. I am of the Opinion with the rest of the Judges, that this Challenge ought to be over-ruled.

Justice Withins. I am of the same Opinion.

L. Ch. Just. My Lord, the Court is of Opinion, upon hearing your Counsel, and the Kings, that it is no good Challenge to a Jury in a case of Treason, that he has not Freehold within the City. But I must tell your Lordship withall, That your Lordship has nothing of hardship in this case, for notwithstanding that, I must tell you, you will have as good a Jury, and better than you should have had in a Country of 4 *l.* or 40 *s.* a year Freeholders. The Reason of the Law for Freeholds is, That no slight Persons should be put upon a Jury, where the Life of a man or his Estate comes in Question, but in the City the Persons that are impannell'd are men of Quality and Substance, men that have a great deal to lose, And therefore your Lordship hath the same in substance, as if a Challenge was allowed of Freehold. It will be no kind of prejudice to your Lordship in this case, Therefore, if you please, apply your self as the Jury is called, and make your Exceptions, if you shall make any.

L. Ch. Just. Mr. Rollexfen, you shall have liberty to stay any where here, if you please.

Counsel. Here is such a great Crowd, my Lord, we have no room.

* Then the Jurymen were called, and after the Lord Russel had challenged One and Thirty of them, the Jury sworn were as follows.

John Martin.	} Jur.	William Butler.
William Rouse.		James Pickering.
Jervas Seaton.		Thomas Jeeve.
William Fashion.		Hugh Noden.
Thomas Short.		Robert Brough.
George Toriano.		Thomas Omeby.

Then was made Proclamation for Information.

Cl. of Cr. William Russel Esq; hold up thy hand. (which he did). You of the Jury look upon the Prisoner, and hearken to his Cause. He stands Indicted by the name of ———— *prout* before in the Indictment. Upon this Indictment he hath been arraigned, and thereunto pleaded Not Guilty, and for his Tryal hath put himself upon his Country, which Country you are: Your Charge is to inquire whether he be Guilty of this High Treason whereof he stands Indicted, or not Guilty: If you find him Guilty, you shall inquire, &c.

Mr. North. May it please your Lordship, and you that are sworn, The Prisoner at the Bar stands charged in this Indictment with no less than the Conspiring the death of the Kings Majesty, and that in order to the same, he did, with other Traitors named in the Indictment, and others not known, 2. November, in the 34th year of this King, in the Parish of *Bassishaw*, within the City of *London*, meet and conspire together to bring our Sovereign Lord the King to death, to raise War and Rebellion against him, and to massacre his Subjects. And in order to compass these wicked Designs, there being assembled, did conclude to seize the Kings Guards, and his Majesties Person. This is the Charge, the Defendant says he is Not Guilty, if we prove it upon him, it will be your duty to find it.

Mr. Att. Gen. My Lord, and you Gentlemen of the Jury, most of our Evidence against this Honourable Person at the Bar is to this purpose, This Person, the Duke of *Monmouth*, my Lord *Gray*, Sir *Thomas Armstrong*, and Mr. *Ferguson*, they were the Council of State, as I may call them, to give forth directions for the general Rising that hath appeared was to have been within this Kingdom. The Rising was of great concern and expence, and must be managed by Persons of interest, prudence, and great secrecy. These Gentlemen had frequent meeting in *October* and *November* last (for then, you may refresh your memories again, was the general Rising to be) and there they did consult how to manage the Rising, they consulted how to seize the King's Guards; And this Noble person being mixed with these others, especially with *Ferguson*, who with others of an inferior rank was also engaged in a Cabal for managing worser things (tho' this is bad enough); at several

ral meetings they receive Messages from my Lord *Shaftsbury* touching the Rising. They being looked upon as the Persons that were to conclude and settle the time and all circumstances about it.

We shall make it appear to you in the course of our Evidence, that those Underlings (for this was the great Consult, and moved all the other Wheels) who managed the Assassination, did take notice that these Lords and Gentlemen of Quality were to manage and steer the whole business of the Rising. It seems these Gentlemen could not give the Earl of *Shaftsbury* satisfaction to his mind, for he pressed them to keep their day, which was the 17th of November last. But the honourable Person at the Bar, and the rest, made him this Answer, That Mr. *Trenchard* had failed them, for that he had promised to have 1000 Foot and 2 or 300 Horse at four hours warning, but now it was come to pass, he could not Perform it, that some Persons in the West would not joyn with them, and therefore at this time they could not proceed, and therefore they must defer the day. And as a Council, they sent my Lord *Shaftsbury* word he must be contented, they had otherwise resolved, and thereupon my Lord *Shaftsbury* went away, and Mr. *Ferguson* with him.

To carry on this practice they took others into their Council Sir *Thomas Armstrong* was left out, and there falling that Scandalous Report upon my Lord *Gray* he was to be left out, and then there was to be a new Council of Six, whereas the inferior Council to manage the Assassination was seven. At this Council there was this honourable Person at the Bar, the Duke of *Monmouth*, my Lord *Howard*, and another honourable Person, who I am sorry to name upon this account, who hath this morning prevented the hand of Justice upon himself, my Lord of *Effex*, and Collonel *Sidney*, and Mr. *Hambden*: These six had their frequent Consults at this Honourable Persons House; for they had Excluded Sir *Thomas Armstrong*, and my Lord *Gray*, for these Gentlemen would have the Face of Religion; and my Lord *Gray* was in their esteem so scandalous, that they thought that would not prevail with the people, if he was of the Council. There they debated how they should make this Rising, after several Consultations they came to this Resolution, That before they did fall upon this Rising, they should have an exact accompt both of the time and method of the Scotch Rising; and thereupon a Messenger was sent on purpose by Collonel *Sidney*, viz. *Aaron Smith*, to invite Scotch Commissioners to treat with these Noble Lords. Pursuant to this, just before the Plot brake out, several from Scotland came to treat with them how to manage the work; 30000 *l.* was demanded by the Scots, in order that they should be ready in Scotland; then they fell to 10000, and at last (for the Scots love Money) they fell to 5000, which they would take and run all hazards, but they not coming to their Terms, that broke off that Week the Plot was discovered.

Gentlemen, if we prove all these Instances, besides we shall call some to shew you that all the inferior Party still looked upon these to be the Heads; and tho' they kept it secret, God hath suffered it to come to light with as plain an Evidence as ever was heard.

Sir Geo. Jeff. I will not take up any of your Lordships time; we will call our Witnesses to prove the Fact Mr. Attorney hath opened. Swear Collonel *Romsey*. (which was done) Pray Collonel *Romsey* will you give my Lord and the Jury an Accompt, from the beginning to the end of the several Meetings that were, and what was the Debates of those Meetings.

Col. *Romsey*. My Lord, I was at my Lord *Shaftsbury*'s Lodging where he lay down by *Wapping* about the latter end of October or the beginning of Novemb. and he told me there was met at one Mr. *Sheppards* house the Duke of *Monmouth*, my Lord *Russel*, my Lord *Gray*, Sir *Thomas Armstrong*, & Mr. *Ferguson*. And he desired me to speak to them to know what resolution they were come to about the Rising of *Taunton*. I did go there accordingly, and call for Mr. *Sheppard*, and he carried me up where they were, and the Answer that was there made me was, That Mr. *Trenchard* had failed them, and there would be no more done in the matter at that time.

Mr. Att. Gen. Tell the whole passage.

Col. *Romsey*. I did say my Lord *Shaftsbury* had sent me to know what resolution they had taken about the rising of *Taunton*. They made me this answer, That Mr. *Trenchard* had failed them, that he had promised 1000 Foot and 300 Horse, but when he came to Perform it he could not. He thought the people would not meddle, unless they had some time to make provision for their Families.

L. Ch. Just. Who had you this Message from?

Col. *Romsey*. Mr. *Ferguson* did speak most of it.

L. Ch. Just. Who sent this Message back?

Col. *Romsey*. Mr. *Ferguson* made the Answer, my Lord *Russel* and the Duke of *Monmouth* were present, and I think my Lord *Gray* did say something to the same purpose.

Mr. Att.

Mr. Att. Gen. Pray how often were you with them at that house?

Col. Romfey. I do not know, I was there more than once; I was there either another time, or else I heard Mr. Ferguson make a Report of another Meeting to my Lord Shaftesbury.

Sir Geo. Jeff. Was my Lord Russell in the Room when this Debate was?

Col. Romfey. Yes, my Lord. Mr. Att. Gen. What did they say further?

Col. Romfey. That was all at that time, that I remember.

Mr. Att. Gen. Was there nothing of my Lord Shaftesbury to be contented?

Col. Romfey. Yes, that my Lord Shaftesbury must be contented; and upon that he took his resolution to be gone.

L. Ch. Just. Did you hear any such Resolution from him?

Col. Romfey. Yes, my Lord.

Mr. Att. Gen. Did you know of their meeting there, or was it by my Lord Shaftesbury's direction?

Col. Romfey. No, but my Lord told me, I should find such Persons, and accordingly I found them; and this Answer was given.

Mr. Att. Gen. What time did you stay?

Col. Romfey. I think I was not there above a quarter of an Hour.

Mr. Att. Gen. Was there any Discourse happened while you were there about a Declaration?

Col. Romfey. I am not certain whether I did hear something about a Declaration there, or that Mr. Ferguson did Report it to my L. Shaftesbury, that they had debated it.

Sir Geo. Jeff. To what purpose was the Declaration?

L. Ch. Just. We must do the Prisoner that Right; He says he can't tell whether he had it from him or Mr. Ferguson.

Mr. Att. Gen. Did you hear no Discourse to what it tended?

Col. Romfey. My Lord, There was some Discourse about seeing what Posture the Guards were in. One of the Jury. By whom Sir?

Col. Romfey. By all the Company that was there. L. Ch. Just. What was that Discourse?

Col. Romfey. To see what Posture they were in, that they might know how to surprize them. L. Ch. Just. The Guards?

Col. Romfey. Yes, that were at the Savoy, and the Meadows.

L. Ch. Just. Whose were the words? Tell the words as near as you can.

Col. Romfey. My Lord, the Discourse was, that some should—

L. Ch. Just. Who made that Discourse.

Col. Romfey. My Lord, I think Sir Tho. Armstrong began it, and Mr. Ferguson.

Mr. Att. Gen. Was it discoursed among all the Company?

Col. Romfey. All the Company did debate it. Afterwards they thought it necessary to see with what care and vigilance they did Guard themselves at the Savoy and the Meadows, whether they might be surprized or not.

Mr. Att. Gen. Was there any undertook to go and see there?

Col. Romfey. There were some Persons. Sir Geo. Jeff. Name them.

Col. Romfey. I think the Duke of Monmouth, my Lord Gray, and Sir Tho. Armstrong.

Sir Geo. Jeff. Was my Lord Russell, the Prisoner, there, when they undertook to take the view? Col. Romfey. Yes, Sir. Mr. Att. Gen. To what purpose was the view?

Col. Romfey. To surprize them if the Rising had gone on.

Sir Geo. Jeff. Did you observe by the Debates that happened, that they did take Notice there was a Rising intended? Col. Romfey. Yes.

Sir Geo. Jeff. And that Direction was given to take a view of the Guards, if the Rising had gone on? Col. Romfey. Yes.

L. Ch. Just. Pray Sir declare justly the discourse.

Col. Romfey. I went to them from my Lord Shaftesbury: And I did tell them, That my Lord did pray they would come to some Resolution; & they told me, Mr. Trenchard they depended upon, for Taunton, had failed them, who when he came up to Town, first at the Term, had assured them, that in three or four Hours time, he could have One Thousand Foot, and Three Hundred Horse: But now it came to be tryed, he Answered it was not possible for him to undertake it, for People would not rush into it of a sudden, but have some time to prepare for their Families.

Mr. Att. Gen. Was it pretended there should be a Rising at that time?

Col. Romfey. Yes, the 19th. of November was appointed for the Rising.

L. Ch. Just. Was it before that time, you went to press them from my Lord Shaftesbury? Col.

The TRIAL of the Lord RUSSEL.

Col. Romfey. Yes, I think it was a matter of a Fortnight before, or something more. For I think it was concluded Sunday fortnight after my L. Gray met.

Mr. Attor. Gen. But you say, besides what you heard there, you understood there was to be a Rising at that time, Was you to be engaged in this?

Col. Romfey. Yes, I was.

L. Ch. Just. You must speak so, that what you deliver may be sensible; for if you speak, I apprehend so and so, that will be doubtfull.

Col. Romfey. No my Lord, The Rising was determined, and I was to have gone to Bristol.

Mr. Attor. Gen. In what capacity, as Colonel or Captain?

Col. Romfey. There was no Determination of that, no Quality.

L. C. Just. By whose Appointment was that?

Col. Romfey. My L. Shaftsbury spake that to me.

Sir. Geo. Jeff. But pray Col. Romfey, this you are very able to know, what the Debates were, and need not be pumped with so many Questions; Pray was there any Debate, when you came with the Message from my L. Shaftsbury, was there a Debate about the Rising?

Col. Romfey. There was no debate of it, because they made answer, Mr. Trenchard had failed them.

Sir. Geo. Jeff. But did not they take notice of the Rising? Give an account of it.

Col. Romfey. I have done it twice.

Jury. We desire to know the Message from the L. Shaftsbury.

L. Ch. Just. Direct your self to the Court: Some of the Gent. have not heard it, they desire you would with a little more loud Voice repeat the Message you were sent of, from my L. Shaftsbury.

Col. Romfey. I was sent by my Lord, to know the Resolution of the Rising in Taunton; they answered, Mr. Trenchard, whom they depended upon for the men, had failed them, and that it must fall at that time, and my Lord must be contented.

Mr. Attor. Gen. Was the Prisoner at the Barr present at that Debate?

Col. Romfey. Yes.

Sir. Geo. Jeff. Did you find him Averse to it, or Agreeing to it?

Col. Romfey. Agreeing to it.

Baron Street. What said my Lord Shaftsbury?

Col. Romfey. Upon my return he said, he would be gone, and accordingly did go.

Sir. Geo. Jeff. If my L. Russell pleases to ask him any Questions, he may.

L. Russel. Must I ask him now?

L. Ch. Just. Yes my Lord, propose your Questions to me.

L. Russel. I have very few Questions to ask him, for I know little of the matter, for it was the greatest accident in the World I was there, and when I saw that Company was there, I would have been gone again. I came there accidentally to speak with Mr. Sheppard; I was just come to Town, but there was no discourse of Surprising the Guards, nor no undertaking of Raising an Army.

L. Ch. Just. We will hear you to any thing by and by, but that which we now desire of your Lordship is, as the Witnesses come, to know if you would have any particular Questions asked of them.

L. Russel. I desire to know, if I gave any Answer to any message about the Rising: I was up and down; I do not know what they might say when I was in the Room; I was tasting of VVine.

L. Ch. Just. Did you observe that my L. Russel said any thing there, and what?

Col. Romfey. Yes, my L. Russel did speak.

L. Ch. Just. About what?

Col. Romfey. About the Rising of Taunton.

L. Russel. It was Sir Tho. Armstrong that conversed with Mr. Trenchard.

L. Ch. Just. What did you observe my L. Russel to say?

Col. Romfey. My L. Russel did discourse of the Rising.

L. Russel. How should I discourse of the Rising at Taunton, that knew not the Place, nor had knowledge of Trenchard.

Mr. Attor. Gen. Now my Lord, we will give you an account, that my L. Russel appointed this place, and came in the dark without his Coach.

L. Russel. My Lord, I think the Witness was asked, if I gave my Consent.

L. Ch. Just. What say you, did my Lord give any Consent to the Rising?

Col. Romfey. Yes my Lord, he did.

Mr. Attor.

Mr. *Att. Gen.* Pray Swear Mr. *Sheppard*, (which was done). Pray will you speak aloud, and give an account to my Lord, and the Jury, of the Meetings at your House, and what was done.

Mr. *Sheppard*. In the month of *October* last, as I remember, Mr. *Ferguson* came to me in the Duke of *Monmouth's* name, and desired the conveniency of my house for him and some other Persons of Quality to meet there. And as soon as I had granted it, in the evening the Duke of *Monmouth*, my Lord *Gray*, my Lord *Russel*, Sr. *Thomas Armstrong*, Col. *Romsey*, and Mr. *Ferguson* came. Sr. *Thomas Armstrong* desired me, that none of my Servants might come up, but they might be private; so what they wanted I went down for, a Bottle of wine or so. The substance of their discourse was, how to surprize the Kings Guards. And in order to that, the Duke of *Monmouth*, my Lord *Gray*, and Sr. *Tho. Armstrong*, as I remember, went one night to the *Mews*, or thereabout, to see the Kings Guards. And the next time they came to my house, I heard Sir *Tho. Armstrong* say, the Guards were very remiss in their places, and not like Souldiers, and the thing was feasible, if they had strength to do it.

Mr. *Att. Gen.* How many Meetings had you there?

Mr. *Sheppard*. I remember but twice Sir.

Mr. *Att. Gen.* Did they meet by Chance, or had you notice they would be there that night?

Mr. *Sheppard*. Yes, I did hear it before.

Mr. *Sol. Gen.* Who had you notice would be there?

Mr. *Sheppard*. The Duke of *Monmouth*, my Lord *Gray*, my Lord *Russel*, Sir *Tho. Armstrong*, Col. *Romsey*, and Mr. *Ferguson*.

Mr. *Att. Gen.* Did they come with their Coaches, or a foot, in the night time and in the dark?

Mr. *Sheppard*. I cannot tell; it was in the Evening, I did not let them in.

Mr. *Att. Gen.* Was there any Coaches at the door?

Mr. *Sheppard*. None that I heard, or saw, they came not altogether, but immediately one after another.

Sir *Geo. Jeff.* Had they any debate before they went into the Room?

Mr. *Sheppard*. No, they went readily into the Room.

Sir *Geo. Jeff.* Was my Lord *Russel* both times there?

Mr. *Sheppard*. Yes, Sir, as I remember.

Sir *Geo. Jeff.* Had you any particular business with my Lord *Russel*, or he with you?

Mr. *Sheppard*. No, not at that time, but since I have had about the Affairs of my Lord *Shaftsbury*.

Sir *Geo. Jeff.* Do you remember, Col. *Romsey* at the first time had any discourse about any private business relating to my Lord *Russel*?

Col. *Romsey*. No, I do not remember it.

Mr. *Att. Gen.* Besides the seizing of the Guards, did they discourse about Raising?

Mr. *Sheppard*. I do not remember any further discourse, for I went several times down to fetch Wine, and Sugar, and Nutmeg, and I do not know what was said in my absence.

Sir *Geo. Jeff.* Do you remember any Writings or Papers read at that time?

Mr. *Sheppard*. None that I saw.

Sir *Geo. Jeff.* Or that you heard of?

Mr. *Sheppard*. Yes, now I recollect my self, I do remember one Paper was read.

Sir *Geo. Jeff.* To what purpose was it?

Mr. *Sheppard*. It was somewhat in the nature of a Declaration; it was read by Mr. *Ferguson*, who was present at the reading, I cannot say whether they were All present or not. The purport of it was setting forth the Greivances of the Nation, but truly what Particulars I can't tell: It was a pritty large Paper.

Mr. *Att. Gen.* But you can tell the Effect of it, When was that to be set out?

Mr. *Sheppard*. It was not discoursed, it was shewn only I suppose for Approbation.

Mr. *Att. Gen.* Who was it shew'd to?

Mr. *Sheppard*. Sir *Tho. Armstrong*.

Sir *Geo. Jeff.* Who else?

Mr. *Sheppard*. As I remember the Duke was present, and I think Col. *Romsey*.

Col. *Romsey*. No, I was not, it was done before I came.

Sir *Geo. Jeff.* What was the designe of that Paper? Recollect your self, what was the design?

Mr. *Sheppard*. The design of that Paper, was in the nature of a Declaration, setting forth the Greivances of the Nation, in order to a Raising, I suppose by the purport

purport of the Paper ; but cannot remember the particular Words of it.

Foreman of the Jury. Can you say my Lord *Russel* was there, when that Declaration was read, as you call it.

Mr. Sheppard. I can't say that.

Mr. Att. Gen. But he was there when they talked of Seizing the Guards ?

Mr. Sheppard. Yes, my Lord was there then.

L. Russel. Pray *Mr. Sheppard*, do you remember the time where these meetings were ?

Mr. Sheppard. I can't be positive as to the Time, I remember it was at the time my *L. Shaftsbury* was absent from his own House, and he absented himself from his own House about *Michaelmas* day ; but I can't be positive as to the Time.

L. Russel. I never was but once at your house, and there was no such design as I heard of. I desire that *Mr. Sheppard* may recollect himself.

Mr. Sheppard. Indeed my Lord I can't be positive in the times. My Lord I am sure was at one meeting.

L. Ch. Just. But was he at Both ?

Mr. Sheppard. I think so, But it was 8 or 9 Months ago, and I can't be positive.

L. Russel. I can prove I was then in the Country. *Col. Romsey* said there was but One meeting.

Col. Romsey. I do not remember I was at two ; if I was not, I heard *Mr. Ferguson* relate the Debates of the other meeting to my Lord *Shaftsbury*.

L. Russel. Is it usual for the Witnesses to hear one another ?

L. Ch. Just. I think your Lordship need not concern your self about that, for I see the Witnesses are brought in one after another.

L. Russel. There was no design. *Sir Geo. Jeff.* He hath sworn it.

Mr. Att. Gen. Swear my Lord *Howard* (which was done.) Pray will your Lordship give an account to the Court, what you know of a Rising designed before my Lord *Shaftsbury* went away, and afterwards how it was continued on.

L. Howard. My Lord, I appear with some confusion. Let no man wonder that it is troublesome to me. My Lord, as to the Question *Mr. Attorney* puts to me, this is the Account I have to give. 'Tis very well known to every one, how great a ferment was made in the City, upon occasion of the long dispute about the Election of Sheriffs : And this soon produced a greater freedom and liberty of Speech one with another, than perhaps had been used formerly, tho' not without some previous preparations and dispositions made to the same thing. Upon this occasion among others, I was acquainted with *Captain Walcot*, a person that had been some Months in *England*, being returned out of *Ireland*, and who indeed I had not seen for 11 Years before. But he came to me as soon as he came out of *Ireland*, and when these unhappy divisions came, he made very frequent applications to me ; and tho' he was unknown himself, yet being brought by me he soon gained a confidence with my Lord *Shaftsbury*, and from him derived it to others, when this unhappy rent and division of mind was, he having before got himself acquainted with many Persons of the City, had entred into such Counsels with them, as afterwards had the Effect, which in the ensuing Narrative I shall relate to your Lordship. He came to me, and told me that they were now sensible all they had was going, that this Force put upon them—

L. Ch. Just. Pray my Lord raise your voice, Else your evidence will pass for nothing.

One of the Jury. We cannot hear my Lord.

L. Howard. There is an unhappy accident happened that hath sunk my voice, I was but just now acquainted with the fate of my Lord of *Effex*—My Lord I say, He came to me, and did acquaint me that the People were now so sensible, that all their Interest was going by that violence offered to the City in their Elections, that they were resolved to take some course to put a stop to it, if it were possible : He told me there were several Consults and Meetings of Persons about it, and several Persons had begun to put themselves into a disposition, and preparation to Act ; That some had furnished themselves with very good Horses, and kept them in the most secret and blind Stables they could ; That divers had intended it, and for his own part he was resolved to embark himself in it. And having an Estate in *Ireland*, he thought to dispatch his Son thither ; (for he had a good real Estate, and a great Stock, how he disposed of his Real estate I know not) ; But he ordered his Son to turn his Stock into money to furnish him for the occasion : This I take to be about *August*. His Son was sent away. Soon after this, the Son not being yet returned, and I having several accompts from him, wherein I found the Fermentation grew higher and higher

higher, and every day a nearer approach to Action. I told him I had a necessity to go into *Essex* to attend the concerns of my own Estate, but told him, how he might by another name convey Letters to me, and gave him a little Cant, by which he might blind and disguise the Matter he wrote about, when I was in the Country. I receiv'd two or three Letters from him, that gave me an Account in that disguised stile, but such as I understood, that the Negotiation which he had with my Correspondents was going on, and in good Condition; and it was earnestly desired, I would come to Town; this was the middle of *September*. I notwithstanding was willing to see the result of that great Affair, upon which all Mens Eyes were fixed, which was the Determination of the Sherivalty about that time. So I ordered it to fall into Town, and went to my own House on *Saturday* night, which was *Michaelmas* day. On *Sunday* he came to me, and Dined with me, and told me (after a general Account given me of the Affairs of the times) that my Lord *Shaftesbury* was secreted and withdrawn from his own House in *Aldersgate-Street*; and that though he had a Family settled, and had absconded himself from them, and divers others of his Friends and Confidants; yet he did desire to speak with me, and for that purpose sent him to shew me the way to his Lodging: He brought me to a House at the lower end of *Wood-street*, one *Watson's* House, and there my Lord was alone. He told me he could not but be sensible, how Innocent soever he was, both he and all honest Men were unsafe, so long as the Administration of Justice was in such Hands, as would accomodate all things to the Humor of the Court. That in the Sense of this he thought it but reasonable to provide for his own Safety, by withdrawing himself from his own House into that Retirement. That now he had ripen'd Affairs to that head, and had things in that Preparation, that he did not doubt but he should be able, by those Men that would be in readiness in *London*, to turn the Tide, and put a stop to the Torrent that was ready to overflow. But he did complain to me, that his design, and the design of the Publick was very much obstructed, by the unhandsome Deportment of the Duke of *Monmouth*, and my Lord *Russel*, who had withdrawn themselves, not only from his Assistance, but from their own Engagements and Appointments. For when he had got such a formed Force as he had in *London*, and expected to have it answered by them in the Country, they did recede from it, and told him they were not in a Condition, or Preparation in the Country, to be concurrent with him at that time. This he looked upon but as an artificial Excuse, and as an instance of their Intentions, wholly to desert him; but notwithstanding there was such Preparation made in *London*, that if they were willing to lose the Honour of being concurrent with him, he was able to do it himself, and did intend speedily to put it into Execution. I asked him, what Forces he had, he said he had enough; says I, what are you assured of? Says he, there is above *Ten Thousand* brisk Boys are ready to follow me, when ever I hold up my Finger: Says I, how have you methoded this, that they shall not be crushed, for there will be a great Force to oppose you? Yes, he answered, but they would possess themselves of the Gates; and these *Ten Thousand* Men in twenty four Hours, would be multiplied into five times the Number; and be able to make a Sally out, and possess themselves of *White-Hall*, by beating the Guards. I told him, this was a fair Story, and I had reason to think, a Man of his figure would not undertake a thing that might prove so fatal, unless it were laid on a Foundation that might give a prudent Man ground to hope it would be Successful. He said he was certain of it, but confessed it was a great disappointment, that these Lords had failed him: I told him, I was not provided with an Answer at that time, That he well knew me, and knew the general frame, and bent of my Spirit. But I told him, I looked upon it as dangerous, and ought to be laid deep, and to be very well weighed and considered of; and did not think it a thing fit to be entred upon, without the Concurrence of those Lords: And therefore desired, before I discovered my own Inclination, to discourse with those Lords. He did consent with much ado; but says he, you will find they will wave it, and give doubtful and deferring Answers, but you will find this a Truth. I went to *Moor-Park* the next day, where the Duke of *Monmouth* was, and told him the great Complaint my Lord *Shaftesbury* had made, that he failed him: Says he, I think he is mad, I was so far from giving him any encouragement, that I did tell him from the beginning, and so did my Lord *Russel*, there was nothing to be done by us in the Country at that time. I did not then own I had seen my Lord, but spake as if this were brought me by a third Person, because he had not given me Liberty to tell them where his Lodging was. Says I, My Lord, I shall be able to give a better account of this in a day or two; Shall I convey

it to my Lord, that you are willing to give a Meeting? Yes, sayes he, with all my Heart: This was the *Second, Third, or Fourth of October*; I came to Town on *Saturday*, and was carried to him on *Monday*; and I suppose this was *Tuesday the Second of October*; On *Wednesday* I think I went to him again (but 'tis not very material) and told him I had been with the Duke of *Monmouth*, and given him a punctual Account of what I had from him; and the Duke did absolutely disown any such thing; and told me, he never did give him any encouragement to proceed that way, because the Countries were not in a disposition for Action, nor could be put in readiness at that time; Sayes my Lord *Shaftesbury*, 'Tis false, they are afraid to own it. And sayes he, I have reason to believe, there is some artificial Bargain between his Father and him, to Save one another: For when I have brought him to Action, I could never get him to put on, and therefore I suspect him: And sayes he, several honest Men in the City, have puzzled me, in asking how the Duke of *Monmouth* lived: Sayes he, they puzzled me, and I could not answer the Question; for I know he must have his Living from the King; and sayes he, We have different Prospects; We are for a *Common-Wealth*; and he hath no other Design but his own personal Interest, and that will not go down with My People now (so he called them) they are all for a *Common-Wealth*: And then sayes he, 'Tis to no purpose for me to see him; it will but widen the Breach, and I dare not trust him to come hither. Sayes I, My Lord, That's a good one indeed, Dare not you trust him, and yet do you send me to him on this Errand? Nay, sayes he, 'Tis because we have had some Mis-understanding of late; but I believe he is true enough to the Interest. Sayes I, 'Tis a great unhappiness to take this time to Fall out; and I think 'tis so great a Design, that it ought to be undertaken with the greatest Strength and Coalition in the Kingdom. Sayes he, My Friends are now gone so far, that they can't pull their Foot back again without going further; for sayes he, It hath been communicated to so many, that 'tis impossible to keep it from taking Air, and it must go on. Sayes he, We are not so unprovided as you think for; there are so many Men, that you will find as brisk Men as any in *England*. Besides, we are to have 1000. or 1500. Horse, that are to be drawn by insensible Parties into Town, that when the Insurrection is, shall be able to Scour the Streets, and hinder them from forming their Forces against us. My Lord, after great enlargement upon this Head, and Heads of the like nature, I told him I would not leave him thus, and that nothing should satisfy me, but an Interview between him and the Lords: No, I could not obtain it: But if I would go and tell them what a Forwardness he was in, and that, if they would do themselves Right, by putting themselves upon correspondent Action in their respective Places, and where their Interest lay, well, otherwise he would go away without them. So I went again to the Duke of *Monmouth*, I spake to him only (I never spake to my Lord *Russel* then, only we were together, but I had never come to any close conjunction of Counsels in my Life with him at that time.) Sayes I to the Duke, This Man is mad, and his Mad-ness will prove fatal to us all; he hath been in a Fright by being in the *Tower*, and carries those Fears about him, that cloud his Understanding: I think his Judgment hath deserted him, when he goes about with those strange sanguine Hopes, that I can't see what should Support him in the Ground of them. Therefore sayes I, Pray will you give him a Meeting. God-foe, sayes the Duke, with all my Heart, and I desire nothing more. Now, I told him, I had been with my Lord *Shaftesbury*, with other Enlargements, that I need not trouble your Lordship with: Well, sayes he, pray go to him, and try if it be possible to get a Meeting: So I went to him, and told him. Sayes I, This is a great unhappiness, and it seems to be a great Absurdity, that you are so forward to Act alone in such a thing as this. Pray, sayes I, without any more to do, since you have this Confidence to send for me, let me prevail with you to Meet them, and give them an Interview, or else you and I must break. I will no longer hold any Correspondence, unless it be so. Sayes he, I tell you they will betray me. In short, he did with much importunity yield, That he would come out the next Night in a Disguise. By this time it was *Saturday*, I take it to be the *sixth of October*; an *Almanack* will settle that: So the next Night being *Sunday*, and the Shops shut, he would come out in a Concealment, be carried in a Coach, and brought to his own House, which he thought then was safest. I came and gave the Duke of *Monmouth* an Account of it; the Duke, I suppose, conveyed the same Understanding to my Lord *Russel*; and I suppose both would have been there accordingly, to have given the Meeting; but next Morning I found Colonel *Romsy* had left a Note at my House, that the Meeting could not be that Day. Then I went to the Duke of *Monmouth*, and he had had the Account before, That my Lord *Shaftesbury* did apprehend himself to be in some Danger

Danger in that House, and that that Apprehension had occasioned him to remove; but we should be sure to hear from him in two or three dayes. We took it as a Waver, and thought he did from thence intend to Abscond himself from us, and it proved so to me, for from that time I never saw him. But Capt. Walcot came to me and told me, that he was withdrawn, but it was for fear his Lodging might be discovered; but he did not doubt, but in a week he would let me know, where his lodging was. But told me within such a time, which I think was 8 or 10 days, there would be a Rising: and I told the D. of Monmouth, and I believe he told my L. Russel; And we believed his Frenzy was now grown to that heighth, that he would Rise immediately, and put his design in execution; so we endeavoured to prevent it. Upon which my Lord Russel (I was told) and the Duke of Monmouth, did force their way to my Lord Shaftsbury, and did perswade him to put off the day of his Rendezvous. I had not this from my L. Russel, for I had not spoke a word to him; but the Duke told me, my L. Russel had been with him (I had indeed an intimation that he had been with him); but the Duke told me, says he, I have not been with him, but my L. Russel was, having been convey'd by Col. Romsey. After this day was put off, it seems it was put off with this condition, That those Lords, and divers others, should be in a readines to raise the Country about that day Fortnight, or thereabouts; for there was not above a Fortnight's time given: And says the Duke of Monmouth, we have put it off, but now we must be in Action, for there's no holding it off any longer. And says he, I have been at Wapping all night, and I never saw a Company of Bolder, and Brisker fellows in my life; And says he, I have been found the Tower, and seen the Avenues of it; and I do not think it will be hard in a little time, to possess our selves of it; But says he, they are in the wrong way; yet we are engaged to be ready for them in a Fortnight, and therefore, says he, now we must apply our selves to it, as well as we can. And thereupon I believe they did fend into the Country; and the Duke of Monmouth told me, he spake to Mr. Trenchard, who was to take particular care of Somerset-Shire, with this circumstance, Says he, I thought Mr. Trenchard had been a brisker fellow; for when I told him of it, he looked so pale, I thought he would have swooned, when I brought him to the brink of Action; and said, I pray go and do what you can among your acquaintance: And truly I thought it would have come then to Action. But I went the next day to him; & he said it was impossible; they could not get the Gent. of the Country to stir yet.

L. Russel. My Lord, I think I have very hard measure, here is a great deal of Evidence by hear-say. L. Ch. Just. This is nothing against you, I declare it to the Jury.

Mr. Att. Gen. If it please you my Lord, Go on in the method of Time. This is nothing against you, but it's coming to you, if your Lordship will have patience, I assure you.

L. Howard. This is just in the order it was done. When this was put off, then they were in a great hurry; & Capt Walcot had been several times with me, & discoursed of it. But upon this disappointment they said, it should be the dishonor of the Lords, that they were backward to perform their parts; but still they were resolv'd to go on. And this had carried it to the latter end of October. About the 17th or 18th Cap. Walcot came to me, and told me, now they were resolv'd positively to rise, and did believe that a smart Party might perhaps meet with some Great men. Thereupon I told the Duke of it; I met him in the street, & went out of my own Coach into his, & told him, That there was some dark intimation, as if there might be some Attempt upon the Kings Person; with that he strook his breast with a great Emotion of spirit, & said, Godsoe, Kill the KING! I will never suffer that. Then we went to the Play-House to find Sir Tho. Armstrong, & send him up and down the City to put it off, as they did formerly; & it was done with that Success, that we were all quieted in our minds, that at that time nothing would be done. But upon the day the King came from New-Market, we din'd together; the Duke of Monmouth was one, and there we had a notion conveyed among us, that some bold Action should be done that day; which comparing it with the Kings coming, we concluded it was design'd upon the King. And I remember my L. Gray, says he, By God, If they do Attempt any such thing, it can't fail. We were in great anxiety of mind; till we heard the Kings Coach was come in, and Sir Tho. Armstrong not being there, we apprehended that he was to be one of the party (for he was not there). This failing, it was then next determined (which was the last Alarm and News I had of it) to be done upon the 17th of November, the Anniversary of Queen Elizabeth; and I remember it by this Remark I made my self, That I fear'd it had been discovered, because I saw a Proclamation a little before, forbidding publick Bonfires without Leave of my Lord Mayor. It made some impressions upon me; that I thought they had got

an intimation of our Intention, and had therefore forbid that meeting. This therefore of the 17th. of November, being also disappointed, and my L. Shaftsbury, being told things were not ripe in the Country, took Shipping and got away; and from that time, I heard no more of him, till I heard he was dead. Now Sir, after this, we all began to lye under the same Sense and Apprehensions that my L. Shaftsbury did, That we had gone so far, and communicated it to so many, that it was unsafe to make a Retreat; and this being considered, it was also considered, that so great an Affair as that was, consisting of such infinite Particulars, to be managed with so much fineness, and to have so many parts, it would be necessary, that there should be some General Council, that should take upon them the Care of the Whole. Upon these thoughts, we Resolved to Erect a little Caball among our selves, which did consist of Six Persons; and the Persons were, The Duke of Monmouth, my Lord of Essex, my Lord Russel, Mr. Hambden Jun. Algernone Sidney, and my Self.

Mr. Attor. Gen. About what time was this, when you settled this Council?

L. Howard. It would have been proper for me in the next place to tell you that, and I was coming to it. This was about the middle of January last, (as near as I can remember); for about that time, we did meet at Mr. Hambdens House.

Mr. Attor. Gen. Name those that met.

L. Howard. All the Persons I Named before: that was, The D. of Monmouth, my L. Essex, my L. Russel, Col. Sidney, Mr. Hambden Jun. and my Self. When we met there, it was presently agreed, what their proper Province was, which was to have a care of the Whole: And therefore it was necessary some General things should fall under our Care and Conduct, which could not possibly be Conducted by individual Persons. The things that did Principally challenge this Care, we thought were these; Whether the Insurrection was most Proper to be begun in London, or in the Country, or both at one instant. This stood upon several different Reasons: It was said in the Country; and I remember the D. of Monmouth insisted upon it, that it was impossible to oppose a Formed, well Methodiz'd, and Governed Force, with a Rabble hastily got together; and therefore whatever Numbers could be gathered in the City, would be suppressed quickly before they could Form themselves: Therefore it would be better to begin it at such a distance from the Town, where they might have an Opportunity of Forming themselves, & would not be subject to the like panick Fear, as in the Town, where half an Hour would convey the News to those Forces, that in another half Hour would be ready to suppress them.

Mr. Attor. Gen. Was this Determined among you all?

L. Howard. In this manner that I tell you, Why it was necessary to be done at some Reasonable distance from the Town. And from thence it was likewise considered, that the being so remote from the Town, it would put the King upon this Dilemma, that either the King would send His Forces to subdue them, or not; if He did, He must leave the City Naked, vvhich being *Proximi Dispositioni* to Action, it would give them Occasion to Rise, and come upon the back of the Kings Forces; if he did not send, it would give them time to Form their Number, and be better Ordered.

Mr. Attor. Gen. My Lord, We do not desire all your Discourse and Debates; What was your other General thing?

L. Howard. The Other was, What Countries and Towns were the fittest and most disposed to Action: and the Third, What Arms were necessary to be got, and how to be disposed: And a Fourth, (which should have been indeed first in Consideration) propounded by the D. of Monmouth, That it would be absolutely Necessary to have some Common Bank of 25. or 30000 l. to Answer the Occasions of such an Undertaking. Nothing was done, but these things were offered then to our Consideration, and we were to bring in our United Advice concerning them. But the Last and Greatest was, How we might so order it, as to draw Scotland into a consent with us, for we thought it necessary that all the Diversion should be given. This was the Last.

Mr. Attor. Gen. Had you any other Meetings?

L. Howard. We had about Ten days after this at my Lord Russels.

Mr. At. Gen. The same Persons? L. How. Every one of the same Persons then meeting.

Mr. Attor. Gen. What Debates had you there?

L. How. Then it was so far, as we came to a Resolution, That some Persons should be sent to my L. Argyle, to settle an Understanding with him, & that some Messengers should be dispatch'd into Scotland, that should invire some Persons hither, that were judged most able to Understand the Estate of Scotland, & give an Account of it: The persons agreed on were, Sir John Cockram, my Lord Melvil, and another, whose Name I have since been

been told upon my Description Sir *Hugh Cambel*. For this purpose we did order a Person should be thought on that was fit-----

Mr. *At. Gen.* Do you know who was sent, and what was done upon this Resolution?

L. *Howard.* I have heard (I never saw him in six Months before) that *Aaron Smith* was sent.

Mr. *At. Gen.* Who was Intrusted to take care of that Business?

L. *Howard.* Colonel *Sidney*, We in discourse, did agree to refer it to Colonel *Sidney*, to have the care of sending a Person.

Mr. *At. Gen.* Who acquainted you *Aaron Smith* was sent?

L. *Howard.* Colonel *Sidney* told me he had sent him, and given him Sixty Guineys for his Journey.

Mr. *At. Gen.* What more Meetings had you?

L. *Howard.* We did then consider that these Meetings might have occasioned some observation upon us, and agreed not to meet again till the return of that Messenger. He was gone I believe, near a Month before we heard any thing of him, which we wondered at, and feared some miscarriage, but if his Letter had miscarried, it could have done no great hurt, for it carried only a kind of Cant in it; It was under the disguise of a Plantation in *Carolina*.

Mr. *At. Gen.* You are sure my Lord *Russell* was there?

L. *Howard.* Yes Sir, I wish I could say he was not.

Mr. *At. Gen.* Did he sit there as a Cipher, What did my Lord say?

L. *Howard.* Every one knows my Lord *Russell* is a Person of great Judgment, and not very Lavish in Discourse.

* Sir G. *Jeff.* But did he consent? L. *Howard.* We did not put it to the Vote, but it went without contradiction, and I took it that all there gave their consent.

Mr. *Sol. Gen.* The raising of Money you speak of, was that put into any way?

L. *Howard.* No, But every Man was to put themselves upon thinking of such a way, that Money might be Collected without administering Jealousy.

Mr. *At. Gen.* Were there no Persons to undertake for a Fund?

L. *Howard.* No, I think not. However it was but opinion, the thing that was said, was Jocosely, rather than any thing else, that my Lord of *Essex* had dealing in Money, and therefore he was thought the most proper Person to take the care of those things; but this was said rather by way of Mirth, then otherwise.

Mr. *At. Gen.* What do you know else my Lord?

L. *Howard.* I was going to tell you, I am now at a full stop. For it was six Weeks or more, before *Smith's* Return, and then drew on the time, that it was necessary for me to go into *Essex*, where I had a small concern; there I stayed about three weeks, when I came back, I was informed that he was Returned, and Sir *John Cockram* was also come to Town.

L. C. *Just.* Did you meet after this?

L. *Howard.* No my Lord, I tell you, that I was forced to go three Weeks upon the account of my Estate, and afterwards I was necessitated to go to the Bath, where I spent five Weeks, and the time of coming from the Bath to this time, is five Weeks more; so that all this time hath been a perfect Parenthesis to me, and more then this, I know not.

L. C. *Just.* My Lord *Russell*, Now, if your Lordship pleases, is the time for you to ask him any Questions.

L. *Russell.* The most he hath said of me, my Lord, is onely hearsay, the two times we met, it was upon no formed design, only to talk of News, and talk of things in General.

L. C. *Just.* But I will tell you what it is he testifies, that comes nearest your Lordship; that so you may consider of it, if you will ask any Questions. He says after my Lord *Shaftsbury* went off (all before is but inducement as to any thing that concerns your Lordship, and does not particularly touch you) after his going away, he says the party concerned with my Lord *Shaftsbury* did think fit to make choice of Six Persons to carry on the Design of an Insurrection or Rising, as he calls it, in the Kingdome. And that to that purpose choice was made of the Duke of *Monmouth*, my Lord of *Essex*, your Lordship, my Lord *Howard*, Colonel *Sidney*, and Mr. *Hamden*.

L. *Russell.* Pray my Lord, not to interrupt you, by what Party (I know no Party) were they chosen?

L. *Howard.* 'Tis very true, we were not Chosen by Community, but did Erect our Selves by mutual Agreement, one with another into this Society.

L. *Russell.* We were People that did meet very often.

L. C. *Just.* Will your Lordship please to have any other Questions asked of my Lord *Howard*?

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Lord

L. Russell. He says it was a formed Design, when we met about no such thing.

L. C. Just. He says, That you did consult among your selves, about the Raising of Men, and where the Raising should first be, whether in the City of *London*, or in more Foreign parts, that you had several Debates concerning it; he does make mention of some of the Duke of *Monmouth's* Arguments for its being Formed in places from the City; he says, you did all agree not to do any thing further in it, till you had considered how to Raise Money and Arms; and to Ingage the Kingdom of *Scotland* in this Business with you; that it was agreed among you, that a Messenger should be sent into the Kingdom of *Scotland*. Thus far he goes upon his own Knowledge, as he saith, what he says after, of sending a Messenger, is by Report only.

Mr. At. Gen. I beg your pardon my Lord.

L. C. Just. 'Tis so, that what he heard concerning the sending of *Aaron Smith*.

Mr. At. Gen. Will you ask him any Questions?

L. Russell. We met, but there was no Debate of any such thing, nor putting any thing in method. But my Lord *Howard* is a Man hath a voluble Tongue, talks very well, and is full of Discourse, and we were delighted to hear him.

Mr. At. Gen. I think your Lordship did mention the *Cambells*?

L. Howard. I did hammer it out, but not without a Parenthesis, it was a Person of the Alliance, and I thought of the name of the *Argyles*.

L. Russell. I desire your Lordship to take notice, that none of these Men I ever saw, my Lord *Melville* I have seen, but not upon this account.

Mr. Atterbury Sworn.

Mr. At. Gen. *Aaron Smith* did go, and *Cambell* he went for is here taken. This is the Messenger. Pray what do you know of the Apprehending of the *Cambells*?

Mr. Atterbury. If it please your Lordship, I did not Apprehend Sir *Hugh Cambell* my self, but he is now in my Custody; he was making his Escape out of a Woodmongers-House, both he and his Son.

Mr. At. Gen. How long did he own he had been at *London*?

Mr. Atterbury. Four Days, and that in that time he had been at Three Lodgings; and that he and his Son, and one *Baily*, came to Town together.

Mr. At. Gen. My Lord, we shall besides this, (now we have fixed this upon my Lord) give you an account, that these Persons that were to Rise, always took them as their Pay-masters, and expected their Assistance. *Mr. Ayle, Mr. Keeling* and *Mr. Leigh*.

I r West Sworn

Mr. At. Gen. That which I call you to, is to know whether or no, in your managery of this Plot, you understood any of the Lords were concerned, and which?

Mr. West. My Lord, As to my Lord *Russell*, I never had any Conversation with him at all, but that I have heard in this, That in the Insurrection, in *November*, *Mr. Ferguson*, and Colonel *Rumsey*, did tell me that my Lord *Russell* intended to go down and take his Post in the *West*, when *Mr. Trenchard* had failed them.

L. C. Just. What is this?

Mr. At. Gen. We have proved my Lord privy to the Consults, now we go about to prove, the Under-actors did know it.

Mr. West. They always said my Lord *Russell* was the Man they most depended upon, because he was a Person looked upon as of great Sobriety.

L. Russell. Can I hinder People from making use of my Name? To have this brought to influence the Gentlemen of the Jury, and inname them against me, is hard.

L. C. Just. As to this, the giving Evidence by hear-say, will not be Evidence, what Colonel *Rumsey* or *Mr. Ferguson*, told *Mr. West*, is no Evidence.

Mr. At. Gen. 'Tis not Evidence to Convict a Man, if there were not plain Evidence before, but it plainly confirms what the other Swears. But I think we need no more.

Sir G. Jeff. We have Evidence without it, and will not use any thing of Garniture; we will leave it as 'tis, we won't trouble your Lordship any further. I think *Mr. Attorney*. We have done with our Evidence.

L. C. Just. My Lord *Russell*, the Kings Counsel do think to rest upon this Evidence that they have given against your Lordship. I would put your Lordship in mind of those things that are material in this Case, and proved against your Lordship, Here is Colonel *Rumsey* does prove against your Lordship this, That he was sent upon an Errand, which in truth, was Traiterous, it was a Traiterous Errand sent from my Lord *Shaftsbury* by him to that Meeting. He does Swear your Lordship was at that Meeting, and he delivered his Errand to them, which was to know what account could be given concerning

concerning the Design of the Insurrection at *Taunton*, and he says, your Lordship being there, this return was made, That Mr. *Trenchard* had failed them in his Undertaking in the Business, and therefore my Lord *Shaftsbury* must be contented, and sit down satisfied as to that time. Mr. *Sheppard* does likewise speak of the same time, that your Lordship was there with the rest of the Persons, the Duke and others, That there was a Discourse concerning an Insurrection to have been made, (though he is not so particular, as to the very Notion of it, as Colonel *Rumsey* is,) as to the time they do agree.

L. *Russell*. Col. *Rumsey* is not positive that I say'd, or heard any thing

L. C. *Just*. My Lord, If you will have a little Patience to hear me, I will tell you what it is presses you, there is this which I have mentioned, and Mr. *Sheppard* does say, there was a Paper purporting a Declaration then Read among the Company there, which was to be Printed upon the Rising, Setting forth the Oppressions and Greivances of the Nation And then my Lord *Howard* (after a great discourse concerning the many designs of my Lord *Shaftsbury*) comes particularly to your Lordship and says, that Six of you, as a chosen Counsel among your selves, (not that you were actually chosen) but as a chosen Counsel among your selves, did undertake to manage the great matter of the Insurrection, and Raising of Men in order to surprize the Kings Guards, and for to Rise, (which is a Rebellion in the Nation.) He says that you had several Consults concerning it. I told you the several particulars of those Consults He mentioned; Now it is fit for your Lordship, and 'tis your time to give some answer to these things.

L. *Russell*. My Lord, I cannot but think my self mighty unfortunate to stand here charged with so High and Hainous a Crime, and that intricated and intermixed with the Treasons and horrid Practices and Speeches of other People, the Kings Counsel taking all advantages, and improving and heightning things against me. I am no Lawyer, a very unready speaker, and altogether a stranger to things of this Nature and alone and without Counsel. Truly my Lord, I am very sensible, I am not so provided to make my just defence as otherwise I should do. But my Lord, you are equal, and the Gentlemen of the Jury, I think, are Men of Consciences, they are Strangers to me, and I hope they value Innocent Blood, and will consider the Witnesses that Swear against me, Swear to save their own Lives, for howsoever Legal Witnesses they may be accounted, they can't be Credible. And for Col *Rumsey*, who it's Notoriously known hath been so highly Obligated by the King and the Duke, for him to be capable of such a design of Murdering the King! I think no body will wonder, if to save his own Life, he will endeavour to take away mine; neither does he Swear enough to do it. And then if he did, the Time by the 13th. of this King is Elapsed, it must be, as I understand by the Law, Prosecuted within Six Months, and by the 25 E. 3. a design of Levying War is no Treason unless by some overt Act it appear. And my Lord, I desire to know what Statute I am to be Tried upon, for Generals, I think, are not to be gone upon in these Cases.

L. C. *Just*. (To the Attorney General) Mr. Attorney, You hear what it is my Lord Objects to this Evidence, He says that as to those Witnesses that Testify any thing concerning him, above Six Months before he was Prosecuted, he conceives the Act of Parliament, upon which he takes himself to be Indicted, does not extend to it, for that says that within Six Months there ought to have been a Prosecution, And my Lord tells you, that he is advised, that a design of Levying War, without actual Levying of War, was not Treason before that Statute.

Mr. At. Gen. To Satisfy my Lord, He is not Indicted upon that Statute, We go upon the 25 E. 3. But then for the next Objection: surely My Lord is Informed wrong. To Raise a Rebellion or a Conspiracy within the Kingdom, is it not that which is called Levying of War in that Statute, but to Raise a Number of Men to brake Prisons, &c. Which is not so directly tending against the Life of the King. To prepare Forces to Fight against the King, that is a design within that Statute to Kill the King; And to design to depose the King, to Imprison the King, to Raise the Subjects against the King, these have been setled by several Resolutions to be within that Statute, and Evidences of a design of Killing the King.

L. *Russell*. My Lord, This is matter of Law; Neither was there but one meeting at Mr. *Sheppards* House.

Mr. At. Gen. My Lord, If you admit the Fact, and will rest upon the Point of Law, I am ready to argue it with any of your Counsel. I will acquaint your Lordship how the Evidence Stands. There is one Evidence since *Christmas* last.

L. *Russell*. That's not to the business of *Sheppards* House. My Lord, one Witness will not convict a Man of Treason.

Mr. At. Gen. If there be one Witness of one Act of Treason, and another of a 2d, another of a 3d, that manifest the same Treason to depose or destroy the King, that will be sufficient.

L. C. Just. My Lord, That has been resolved, the Two Witnesses, the Statute requires, are not to the same individual Act, but to the same Treason if they be several Acts declaring the same Treason, and one Witness to each of them, they have been reckoned two Witnesses within the Statute of *Edw. 6.*

Sir Geor. Jef. If My Lord will call his Witness----

L. Russell. This is tacking of Two Treasons together, here is one in *November* by one Witness, and then you bring on another with a Discourse of my Lord *Howard*, And he says the Discourse passed for Pleasure.

L. C. Just. If your Lordship do doubt whether the Fact proved against your Lordship be Treason or not within the Statute of *E. 3.* and you are contented that the Fact be taken as proved against your Lordship, and so desire Counsel barely upon that, that is matter of Law. You shall have it granted.

L. Russell. I am not knowing in the Law, I think 'tis not proved, and if it was, I think tis not Punishable by that Act. I desire Counsel may be admitted upon so Nice a Point. My Life Lies at Stake; here's but one Witness that speaks of a Message.

Sir Geor. Jef. The Fact must be left to the Jury, Therefore if my Lord *Russell* hath any Witnesses to call, in Opposition to these matters, let him.

L. C. Just. My Lord, There can be no matter of Law but upon a Fact Admitted and Stated.

L. Russell. My Lord, I do not think it proved, I hope you will be of Counsel for me, tis very hard for me that my Counsel may not speak for me in a point of Law.

L. C. Just. My Lord, To hear your Counsel, concerning this Fact, that we cannot do, it was never done, nor will be done. If your Lordship doubts whether this Fact is Treason or not, and desire your Counsel may be heard to that, I will do it.

L. Russell. I doubt in Law, and do not see the Fact is proved upon me.

Mr. Sol. Gen. Will your Lordship please to call any Witnesses to the matter of Fact?

L. Russell. Tis very hard a Man must lose his Life upon Hearsay. *Col. Rumsey* says he brought a Message, which I will Swear I never heard nor know of. He does not say he spake to me, or I gave him any Answer. *Mr. Sheppard* remembers no such thing, he was gone to, and again, here is but one Witness and Seven Months agoe.

Mr. At. Gen. My Lord, If there be any thing that is Law, you shall have it.

L. Russell. My Lord, Colonel *Rumsey*, the other day before the King, could not say that I heard it, I was in the Room, but I came in late, they had been there a good while, I did not stay above a quarter of an hour talking *Sherry* with *Mr. Sheppard*.

L. C. Just. Read the Statute of 25 *E. 3. c. 2.* My Brothers desire to have it read.

Cl. of Cro. Whereas divers opinions have been before this time, in what Case Treason shall be said, and in what not: The King at the Request of the Lords and of the Commons, hath made a Declaration in the manner as hereafter followeth. That is to say, when a Man doth compass or imagine the Death of our Lord the King, or of our Lady his Queen, or of their eldest Son and Heir, or if a Man do Violate the Kings Compagnion, or the Kings Eldest Daughter unmarried, or the Wife of the Kings eldest Son and Heir; or if a man do levy War against our Lord the King, in his Realm, or be adherent to the Kings Enemies in his Realm, giving to them Aid and Comfort in the Realm or elsewhere, and thereof be proveably attainted of open Deed by People of their Condition. And if a Man counterfeit the Kings Great or Privy Seal, or his money: and if a man bring false money into this Realm, counterfeit to the money of England, as the money called *Lushburgh*, or other like to the said money of England, knowing the money to be false, to Merchandise or make Payment in deceit of our said Lord the King, and of his People: and if a man Steal the Chancellor, Treasurer, or the Kings Justices of the one Bench or the other, Justices in Eyre, or Justices of Assize, and all other Justices designed to hear and determine, being in their places during their Offices. And it is to be understood that in the Cases above rehearsed, that ought to be Judged Treason, which extends to our Lord the King, and his Royal Majesty.

L. C. Just. My Lord, That which is urged against you by the Kings Counsel, is this. You are accused by the Indictment of compassing and designing the Kings Death, and of endeavouring to Raise an Insurrection in Order to it; That, that they do say, is, that these

these Counsels that your Lordship hath taken, are Evidences of your compassing the Kings Death; and are Overt Acts, Declaring the same; and upon that it is they insist your Lordship to be Guilty within that Statute.

L. Russell. It is in a Poynt of Law, and I desire Counsel.

Mr. At. Gen. Admit your Consultations, and we will hear them.

L. C. Just. I would set your Lordship right, for probably you may not apprehend the Law in this Case; If your Counsel be heard, they must be heard to this, That taking it, that my Lord *Russell* has consulted in this manner, for the Raising of Forces within this Kingdom, and making an Insurrection within this Kingdom, as Colonel *Rumsey* and my Lord *Howard* have Deposed, whether then this be Treason; we can hear your Counsel to nothing else.

L. Russell. I do not know how to answer to it. The point methinks must be quire otherwise, that there should be Two Witnesses to one thing at the same time.

Mr. At. Gen. Your Lordship remembers, in my Lord *Stafford's* Case, there was but one Witness to one Act in *England*, and another to another in *France*.

L. Russell. It was to the same point.

Mr. At. Gen. To the general point, the lopping point.

Sir G. Jeff. There was not so much Evidence against him, as there is against your Lordship.

L. C. Just. My Lord, if your Lordship will say any thing, or call any Witnesses to disprove what either of these Gentlemen have said, we will hear your Lordship what they say. But if you can't contradict them by Testimony, it will be taken to be a proof. And the way you have to disprove them, is to call Witnesses, or by asking Questions; whereby it may appear to be untrue.

Mr. Sol. Gen. If you have any Witnesses, call them, my Lord.

L. Russell. I do not think they have proved it. But then it appears by the Statute, that Levying War is Treason, but a Conspiracy to Levy War is no Treason; if nothing be done, 'tis not Levying War within the Statute. There must be manifest proof of the matter of Fact, not by inference.

Mr. At. Gen. I see that is taken out of my Lord *Coke*. Levying War is a distinct branch of the Statute, and my Lord *Coke* explains himself afterwards, and says, 'tis an Assuming of Royal Power, to Raise for particular purposes.

Just. Wythins. Unless matter of Fact be agreed, we can never come to argue the Law.

L. Russell. I came in late.

Mr. Sol. Gen. Pray my Lord, has your Lordship any Witnesses to call, as to this matter of Fact?

L. Russell. I can prove I was out of Town when one of the meetings was, but Mr. *Sheppard* can't recollect the Day, for I was out of Town all that time. I never was but once at Mr. *Sheppard's*, and there was nothing undertaken of viewing the Guards while I was there; Colonel *Rumsey*, Can you Swear positively, that I heard the Message, and gave any Answer to it?

L. C. Just. (To Colonel *Rumsey*,) Sir, did my Lord *Russell* hear you, when you deliver'd the Message to the Company? were they at the Table, or where were they?

Col. Rumsey. When I came in they were standing at the fire-side, but they all came from the fire-side to hear what I said.

L. Russell. Colonel *Rumsey* was there when I came in.

Col. Rumsey. No, my Lord. The Duke of *Monmouth* and my Lord *Russell* went away together, and my Lord *Gray* and Sir *Thomas Armstrong*.

L. Russell. The Duke of *Monmouth* and I came together, and you were standing at the Chimney when I came in; you were there before me. My Lord *Howard* hath made a long Narrative here of what he knew, I do not know when he made it, or when he did recollect any thing; 'tis but very lately, that he did Declare and Protest to several People, That he knew nothing against me, nor of any Plot, I could in the least, be Questioned for.

L. C. Just. If you will have any Witnesses called to that, you shall, my Lord.

L. Russell. My Lord *Anglesey*, and Mr. *Edward Howard*.

My Lord *Anglesey* stood up.

L. C. Just. My Lord *Russell*, what do you ask my Lord *Anglesey*?

L. Russell. To Declare what my Lord *Howard* told him, about me, since I was Confined.

L. Anglesey. My Lord, I chanced to be in Town the last Week, and hearing my Lord

of Bedford was in some Distress and Trouble, concerning the Affliction of his Son, I went to give him a Visit, being my old Acquaintance, of some 53 Years standing, I believe, for my Lord and I was Bred together at *Maudlin-College* in *Oxon*, I had not been there but a very little while, and was ready to go away again, after I had done the good Office I came about, but my Lord *Howard* came in, I don't know whether he be here.

L. Howard. Yes, here I am to serve your Lordship.

L. Anglesey. And sat down on the other side of my Lord of Bedford, and he began to Comfort my Lord, and the Arguments he used for his Comfort, were, My Lord, You are happy in having a wife Son, and a worthy Person, one that can never sure be in such a Plot as this, or suspected for it, and that may give your Lordship reason to expect a very good Issue concerning him. I know nothing against him, or any Body else, of such a Barbarous Design, and therefore your Lordship may be Comforted in it. I did not hear this only from my Lord *Howard's* Mouth, but at my own home upon the *Monday* after; for I use to go to *Yatteridge* for fresh Air; I went down on *Saturday*, this happened to be on *Friday*, (my Lord being here, I am glad, for he can't forget this Discourse,) and when I came to Town on *Monday*, I understood that my Lord *Howard* upon that very *Sunday* had been at Church with my Lady *Chaworth*. My Lady has a Chaplain, it seems, that Preaches there, and does the Offices of the Church, but my Lady came to me in the Evening. This I have from my Lady——

L. C. Just. My Lord, what you have from my Lady is no kind of Evidence at all.

L. Anglesey. I don't know what my Lord is, I am acquainted with none of the Evidence; nor what hath been done. But my Lady *Chaworth* came to me, and acquainted me, There was some suspicion——

Sir G. Jeff. I don't think it fit for me to interrupt a Person of your Honour, my Lord, but your Lordship knows in what place we stand here, what you can say of any thing you heard of my Lord *Howard*, we are willing to hear, but the other is not Evidence. As the Court will not let us offer hear-says, so neither must we that are for the King permit it.

L. Anglesey. I have told you what happened in my hearing.

Then Mr. *Howard* stood up.

L. C. Just. Come Mr. *Howard*, what do you know?

Mr. Howard. I must desire to say something of my Self and my Family first, My Lord and I have been very intimate, not only as Relations, but as dear Friends. My Lord, I have been of a Family known to have great Respect and Duty for the King, and I think there is no Family in the Nation so numerous, that hath expressed greater Loyalty, upon which account I improved my Interest in my Lord *Howard*; I endeavoured, upon the great Misunderstanding of the Nation, (if he be here he knows it,) to persuade him to apply himself to the King, to serve him in that great difficulty of State, which is known to all the World. I sometimes found my Lord very forward, and sometimes I soften'd him, upon which Partly, upon his permission, and more upon my own inclination of Duty, I made several Applications to Ministers of State, (and I can name them) that my Lord *Howard* had a great desire of serving the King in the best way of Satisfaction, and particularly in the great Business of his Brother. I wonder'd there should be so much sharpness for a matter of Opinion, and I told my Lord so, and we had several Disputes about it. My Lord, I do say this before I come to the thing. After this I did partly by his permission, and partly by my own inclination, to serve the King, because I thought my Lord *Howard* a Man of Parts, and saw him a Man that had interest in the Nation, tell my Lord *Feverham*, that I had prevailed with a Relation of mine, that may be he might think oppose, that perhaps might serve the King in this great Difficulty that is Emergent, and particularly that of his Brother. My Lord *Feverham* did receive it very kindly, and I writ a Letter to him, to let him know how I had fostered my Lord, and that it was my desire he should speak with my Lord at *Oxon*. My Lord *Feverham* gave me a very kind Account when he came again, but he told me——

L. C. Just. Pray apply your self to the matter you are called for.

Mr. Howard. This it may be is to the matter, when you have heard me; for I think I know where I am, and what I am to say.

L. C. Just. We must desire you not to go on thus.

Mr. Howard. I must satisfy the World, as well as I can, as to my Self, and my Family, and pray do not interrupt me. After this, my Lord, there never passed a Day, for almost——

L. C. Just. Pray

L. C. Just. Pray speak to this matter. *Mr. Howard* Sir, I am coming to it. *L. C. Just.* Pray Sir, be directed by the Court. *Mr. Howard* Then now Sir, I will come to the Thing. Upon this ground, I had of my Lords kindness, I applied my self to my Lord in this present Issue, for the breaking out of this Plot. My Lord I thought certainly as near as I could discern him, (for he took it upon his Honor, his Faith, and as much as if he had taken an Oath before a Magistrate,) that he knew nothing of any Man concerned in this Business, and particularly of my Lord Russell, whom he vindicated with all the Honor in the World. My Lord, it is true, was afraid of his own Person, and as a Friend, and a Relation, I concealed him in my House, and I did not think it was for such a Conspiracy, but I thought he was unwilling to go to the Tower for nothing again. So that if my Lord Howard, has the same Soul on Monday; that he had a Sunday, this can't be true; that he Swears against my Lord Russell. This I say upon my Reputation, and Honour, and something I could say more, he added, he thought my Lord Russell did not only unjustly Suffer, but he took God, and Men to Witness, He thought him the worthyest Person in the World. I am very sorry to hear any Man of my Name, should be Guilty of these Things.

L. Russell. Call Dr. Burnet. Pray Dr. Burnet, did you hear any thing from my Lord Howard, since the Plot was discovered concerning me.

Dr. Burnet. My Lord Howard was with me, the Night after the Plot broke out, and he did then, as he had done before, with Hands and Eyes, lifted up to Heaven, say he knew nothing of any Plot, nor believed any, and treated it, with great Scorn and Contempt.

L. Howard. My Lord, may I speak for my self.

Sir G. Jeff. No, no my Lord, we don't call you.

L. C. Just. Will you please to have any other Witnesses called.

L. Russell. There are some Persons of Quality, that I have been very well acquainted and conversed with, I desire to know of them: if there was any thing in my former Carriage, to make them think me like to be Guilty of this. My Lord Cavendish.

L. Cavendish. I had the Honour to be acquainted with my Lord Russell a long time, I always thought him a Man of great Honour, and too Prudent and Wary a Man to be concerned in so Vile and Desperate a design as this, and from which he would receive so little advantage, I can say nothing more, but that Two or Three days since the Discovery of this Plot, upon discourse about Col. Rumsey, my Lord Russell did express something, as if he had a very ill Opinion of the Man, and therefore it is not likely he would intrust him with such a Secret.

L. Russell. Dr. Tillotson,

He appears.

L. C. Just. What Questions would you ask him my Lord?

L. Russell. He, and I, happened to be very conversant. To know whether he did ever find any thing tending to this in my discourse.

L. C. Just. My Lord, calls you as to his Life, and Conversation, and Reputation.

Dr. Tillotson. My Lord, I have been many Years last past acquainted with my Lord Russell, I always judged him a Person of great Vertue, and Integrity, and by all the Conversation and Discourse I ever had with him, I always took him to be a Person very far from any such wicked Design he stands Charged with.

L. Russell. Dr. Burnet. If you please to give some account of my Conversation.

Dr. Burnet. My Lord, I have had the Honour to be known to my Lord Russell several Years, and he hath declared himself, with much Confidence to me, and he always upon all occasions expressed himself against all Risings, and when he spoke of some People that would provoke to it, he expressed himself so determined against that matter, I think no Man could do more.

L. C. Just. Will your Lordship call any other Witnesses?

L. Russell. Dr. Cox

Dr. Thomas Cox stood up.

Dr. Cox. My Lord, I did not expect to have been spoken to upon this Account. Having been very much with my Lord of late, that is for a Month or Six Weeks before this Plot came out, I have had occasion to speak with my Lord in private, about these Publick Matters. But I have always found that my Lord was against all kind of Risings, and thought it the greatest Folly and Madness, till things should come in a Parliamentary way. I have had occasion often to speak with my Lord Russell in private, and having my self been against all kind of Risings, or any thing that tended to the disorder of the Publick, I have heard him profess Solemnly, he thought it would Ruin the best Cause in the World to take any of these irregular ways for the preserving of it, and particularly my Lord hath expressed himself occasionally of these two Persons, my Lord Howard,

and

and Col. *Rumsey*. One of them, Col. *Rumsey*, I saw once at my Lords House, and he offered to speak a little privately. But my Lord told me he knew him but a little, I told him he was a Valiant Man, and acted his Part Valiantly in *Portugal*. He say'd he knew him little, and that he had nothing to do with him but in my Lord *Shaftsbury's* business. He say'd, for my Lord *Howard*, he was a Man of excellent Parts of Luxuriant Parts, but he had the luck not to be much trusted by any Party. And I never heard him say one word of Indecency, or Immodesty towards the King.

L. Russell. I would pray the Duke of *Somerset*, to speak what he knows of me.

D. of Som. I have known my Lord *Russell* for about Two Years, and have had much Conversation with him, and been often in his Company, and never heard any thing from him, but what was very Honourable, Loyal, and Just.

L. C. Just. My Lord does say, that he has known my Lord *Russell* for about Two Years, and hath had much Conversation with him, and been much in his Company, and never heard any thing from him, but what was Honourable, and Loyal, and Just, in his Life.

Foreman of the Jury. The Gent. of the Jury, desire to ask my Lord *Howard* something upon the Point, my Lord *Anglesey* testified, and to know what answer he makes to my Lord *Anglesey*.

L. C. Baron. My Lord, What say you to it, that you told his Father he was a discreet Man, and he needed not to Fear his Engagement in any such thing?

L. Howard. My Lord, if I took it right, my Lord *Anglesey's* Testimony did Branch it self into Two Parts, one of his own Knowledge, and the other by Hear-say, as to what he sayd of his own Knowledge, when I waited upon my Lord of *Bedford*, and endeavourd to comfort him, concerning his Son, I believe I sayd the words my Lord *Anglesey* has given an account of, as near as I can remember, that I looked upon his Lordship, as a Man of that Honour, that I hoped he might be secure, that he had not Intangled himself, in any thing of that Nature. My Lord, I can hardly be provoked to make my own defence, least this Noble Lord should Suffer, so willing I am to serve my Lord, who knows I can't want Affection for him. My Lord, I do confess I did say it; for your Lordship well knows under what Circumstances we were, I was at that time to out-face the thing, both for my self, and my Party, and I did not intend to come into this Place, and Act this Part. God knows how it is Brought upon me, and with what unwillingness I do Sustain it, but my Duty to God, the King, and my Country, requires it, but I must confess, I am very sorry to carry it on thus far. My Lord, I do confess I did say so, and if I had been to Visit my Lord *Pemberton*, I should have say'd so. There is none of those that know my Lord *Russell*, but would speak of my Lord *Russell*, from those Topicks of Honour, Modesty, and Integrity, his whole Life deserves it. And I must confess, I did frequently say, there was nothing of Truth in this, and I wish this may be for my Lords advantage. My Lord, will you spare me one thing more, because that leaps hard upon my Reputation, and if the Jury believe that I ought not to be believed, for I do think the Religion of an Oath, is not Tied to a Place, but receives its Obligation from the appeal, we therein make to God, and I think, if I called God and Angels, to Witness to a Fals-hood, I ought not to be believed now. But I will tell you, as to that, your Lordship knows, that very Man that was Committed, was Committed for a design of Murdering the King, now I did lay hold on that part, for I was to carry my Knife close between the Parting, and the Apple, and I did say, that if I were an Enemy to my Lord *Russell*, and to the Duke of *Monmouth*, and were called to be a Witness, I must have declared in the presence of God, and Man, that I did not believe either of them had any design to Murder the King. I have said this, because I would not walk under the Character of a Person, that would be Perjured at the expence of so Noble a Persons Life, and my own Soul.

L. Russell. My Lord *Clifford*.

L. C. Just. What do you please to ask my Lord *Clifford*.

L. Russell. He hath known my Conversation for many Years.

L. Clifford. I always took my Lord, to be a very Worthy Honest Man, I never saw any thing in his Conversation to make me believe otherwise.

L. Russell. Mr. *Gore*.

Mr. *Luton Gore*. I have been acquainted with my Lord several years, and conversed much with him, in all the Discourse I had with him, I never heard him let any thing fall that tended in the least to any Raising, or any thing like it: I took him to be one of the best Sons, one of the best Fathers, and one of the best Masters, one of the best Husbands, one of the best Friends, and one of the best Christians we had. I know of no Discourse concerning this matter.

L. Russell. Mr. *Spencer*, and Dr. *Fitz Williams*.

Mr. *Spencer*. My Lord, I have known my Lord *Russell* many years, I have been many Months with him in his House; I never saw any thing by him, but that he was a most Vertuous and Prudent Gentleman, and he had Prayers constantly twice a day in his House.

L. C. Just. What, as to the General Conversation of his Life, my Lord asks you whether it hath been sober.

Mr. *Spencer*. I never saw any thing but very good, very Prudent, and very Vertuous.

L. Russell. What Company did you see used to come to me.

Mr. *Spencer*. I never saw any but his near Relations, or his own Family. I have the honour to be related to the Family.

Then Doctor *Fitz Williams* stood up.

L. Russell. If it please you Doctor, you have been at my House several times, give an account of what you know of me.

Dr. *Fitz Williams*. I have had the knowledge of my Lord these Fourteen Years, from the time he was Married to his present Lady, to whose Father, Eminent for Loyalty, I had a Relation by Service; I have had acquaintance with him both at *Stratton* and *Souhampton* Buildings, and by all the Conversation I had with him; I esteemed him a Man of that Virtue, that he could not be Guilty of such a Crime as the Conspiracy he stands charged with.

L. C. Just. My

L.C.J. My Lord, does your Lordship call any more Witnesses ?

L. Russel. No, my Lord, I will be very short. I shall declare to your Lordship that I am one that have always had a heart sincerely Loyal and Affectionate to the King and the Government, the best Government in the world. I pray as sincerely for the Kings happy and long life as any man alive ; and for me to go about to raise a Rebellion, which I looked upon as so wicked and unpracticable, is unlikely. Besides, if I had been inclined to it, by all the observation I made in the Country, there was no tendency to it. What some hot-headed people have done there, is another thing. A Rebellion can't be made now as it has been in former times ; we have few great Men. I was always for the Government, I never desired any thing to be redressed but in a Parliamentary and Legal way. I have been always against Innovations, and all Irregularities whatsoever, and shall be as long as I live, whether it be sooner or later. Gentlemen, I am now in your hands eternally, my Honour, my Life, and all ; and I hope the Heats and Animolities that are amongst you will not so byass you, as to make you in the least inclined to find an Innocent man guilty. I call to witness Heaven and Earth, I never had a design against the Kings Life in my life, nor never shall have. I think there is nothing proved against me at all. I am in your hands, God direct you.

Mr. Sol. Gen. My Lord, and you Gentlemen of the Jury, the Prisoner at the Bar stands Indicted for High Treason, in Conspiring the Death of the King. The Overt Act that is laid to prove that Conspiracy and imagination by, is the assembling in Council to raise Arms against the King, and raise a Rebellion here. We have proved that to you by Three Witnesses. I shall endeavour as clearly as I can to state the substance of the Evidence to you, of every one of them as they have delivered it.

The first Witness Colonel *Romsy* comes, and he tells you of a Message he was sent of to Mr. *Sheppards* house to my Lord *Russel*, with several other persons who he was told would be there assembled together. And the Message was, to know what readiness they were in, what Resolutions they were come to concerning the Rising at *Taunton*. By this you do perceive that this Conspiracy had made some progress, and was ripe to be put in action. My Lord *Shaftesbury* that had been a great Contriver in it, he had pursued it so far, as to be ready to rise. This occasioned the Message from my Lord *Shaftesbury* to my Lord *Russel*, and those Noble persons that were met at Mr. *Sheppards* house, to know what the Resolution was concerning the business of *Taunton*, which you have heard explained by an undertaking of Mr. *Trenchards* : That the answer was, they were disappointed there, and they could not then be ready, and that my Lord *Shaftesbury* must be content. This Message was delivered in presence of my Lord *Russel* ; the Messenger had notice my Lord *Russel* was there ; the Answer was given as from them all, That at present they could not be ready, because of that disappointment. Col. *Romsy* went further, and he Swears there was a Discourse concerning the Surprizing of the Guards ; and the Duke of *Monmouth*, my Lord *Gray*, and Sir *Thomas Armstrong*, went to see in what posture they were in, whether it were feasible to surprize them, and they found them very remiss ; and that account they brought back, as is proved to you by Mr. *Sheppard*, the other Witness, That it was a thing very feasible. But to conclude with the substance of Col. *Romsy*'s Evidence, he says, my Lord was privy to it, that he did discourse among the rest of it, though my Lord was not a man of so great discourse as the rest, and did talk of a Rising. He told you there was a Rising determined to be on the 19th of November last, which is the substance of Col. *Romsy*'s Evidence.

Gentlemen, the next Witness is Mr. *Sheppard*, and his Evidence was this : he Swears that about October last, Mr. *Ferguson* came to him of a Message from the Duke of *Monmouth*, to let him know, that he and some other persons of Quality would be there that night, that accordingly they did meet and my Lord *Russel* was there likewise ; that they did desire to be private, and his Servants were sent away ; and that he was the man that did attend them. He Swears there was a discourse concerning the way and method to seize the Guards ; he goes so far, as to give an account of the Return of the Errand the Duke of *Monmouth*, my Lord *Gray*, and Sir *Thomas Armstrong* went upon, That it was feasible if they had strength to do it. Then he went a little farther, and he told you there was a Paper read, that in his Evidence does not come up to my Lord *Russel*, for he did not say my Lord *Russel* was by, and I would willingly repeat nothing but what concerns the Prisoner. This therefore Col. *Romsy* and Mr. *Sheppard* agree in, That there was a Debate among them how to surprize the Guards, and whether that was feasible ; and Mr. *Sheppard* is positive as to the return made upon the view.

The next Witness was my Lord *Howard* ; he gives you an account of many things,

and many things that he tells you are by hearſay. But I cannot but obſerve to you, that all this hearſay is confirmed by theſe two poſitive Witneſſes, and their Oaths agree with him in it. For my Lord *Shaftsbury* told him of the diſappointment he had met with from theſe Noble Perſons that would not joyn with him; and then he went from my Lord *Shaftsbury* to the Duke of *Monmouth* to expostulate with him about it (for my Lord *Shaftsbury* was then ready to be in action) and that the Duke ſaid he always told him he would not engage at that time. This thing is confirmed to you by theſe two Witneſſes. Col. *Ramsay* ſays, when he brought the Meſſage from my Lord *Shaftsbury*, the answer was, They were not ready, my Lord muſt be contented.

Next he goes on with a diſcourſe concerning my Lord *Shaftsbury*, (that does not immediately come up to the Priſoner at the Bar, but it manifefſts there was a Deſigne at that time) he had 10000 brisk Boys (as he called them) ready to follow him upon the holding up his finger. But it was thought not ſo prudent to begin it, unleſs they could joyn all their Forces. So you hear in this they were diſappointed: And partly by another accident too my Lord *Howard* had an apprehenſion it might be diſcovered, that was upon the Proclamation that came out forbidding Bonfires, to prevent the ordinary Tumults that uſed to be upon thoſe occaſions. Then my Lord *Howard* goes on and comes particularly to my Lord *Ruſſel*: for upon this diſappointment you find my Lord *Shaftsbury* thought fit to be gone. But after that, the Deſigne was not laid aſide: for you hear they onely told him all along they could not be ready at that time, but the Deſigne went on ſtill to raiſe Arms, and then they took upon themſelves to conſult of the methods of it; and for the carrying it on with the greater ſecrecy, they choſe a ſelect Council of Six, which were the Duke of *Monmouth*, my Lord of *Effex*, my Lord *Howard*, my Lord *Ruſſel*, Mr. *Hambden*, and Col. *Sidney*. That accordingly they met at Mr. *Hambden's* (there was their firſt meeting) and their Conſultation there was, how the Inſurrection ſhould be made, whether firſt in *London*, or whether firſt in the Country, or whether both in *London* and in the Country at one time. They had ſome Debates among themſelves that it was fitteſt firſt to be in the Country; for if the King ſhould ſend his Guards down to ſuppreſs them, then the City that was then as well diſpoſed to riſe, would be without a Guard, and eaſily effect their deſignes here.

Their next meeting was at my Lord *Ruſſel's* own houſe, and there their Debates were ſtill about the ſame matter, how to get in *Scotland* to their aſſiſtance; and in order to that, they did intruſt Col. *Sidney* one of their Counſel to ſend a Meſſenger into *Scotland* for ſome perſons to come hither, my Lord *Melvin*, Sir *Hugh Cambell*, and Sir *John Cockram*. Accordingly Col. *Sidney* ſends *Aaron Smith* (but this is onely what Col. *Sidney* told my Lord afterwards, that he had done it, but) you ſee the fruit of it. Accordingly they are come to Town, and Sir *Hugh Cambell* is taken by a Meſſenger upon his arrival; and he had been but four days in Town, and he had changed his Lodging three times.

Now, Gentlemen, this is the ſubſtance of the Evidence that hath been produced againſt my Lord *Ruſſel*. My Lord *Ruſſel* hath made ſeveral Objections, That he was accidentally at this meeting at Mr. *Sheppards* houſe, and came about other buſineſs; but I muſt obſerve to you, that my Lord *Ruſſel* owned that he came along with the Duke of *Monmouth*, and I think he ſaid he went away with him too. You obſerve what Mr. *Sheppard's* Evidence was: Mr. *Ferguson* came to tell him the Duke of *Monmouth* would come, and accordingly the Duke of *Monmouth* did come, and brought his Companion along with him, which was my Lord *Ruſſel*; and certainly they that met upon ſo ſecret an Affair, would never have brought one that had not been concerned. Gentlemen, there are other Objections my Lord hath made, and thoſe are in point of Law; but before I come to them, I would obſerve what he ſays to the ſecond Meeting. My Lord does not deny but that he did meet both at Mr. *Hambdens* houſe and my Lords own: I think my Lord ſaid they did meet onely to diſcourſe of News; and my Lord *Howard* being a man of excellent diſcourſe, they met for his converſation. Gentlemen, you can't believe that this deſigned Meeting was for nothing, in this cloſe ſecret Meeting that they had no contrivance among them. You have heard the Witneſs, he ſwears poſitively what the Converſation was; and you ſee the fruit of it, Sir *Hugh Cambell's* coming to Town, and abſconding when it is diſcovered. Now my Lord *Ruſſel* inſiſts upon it, that admitting theſe Facts be proved upon him, they amount to no more than to a Conſpiracy to levy War, and that that is not Treason within the Statute of 25 E. 3. and if it be onely within the Statute of the 13th of this King, then 'tis out of time, that directs the proſecution to be within fix months. The Law is plainly otherwiſe. The Statute of the 13th of this King I will not now inſiſt upon, though I believe if that be ſtrictly looked into, the clauſe that ſays the proſecution

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shall be within six months, does not refer to Treason, but only to the other offences that are highly punishable by that Statute. For the Proviso runs thus :

13. Car. 2. *Provided always, that no person be prosecuted for any of the Offences in this Act mentioned, (other than such as are made and declared to be High Treason) unless it be by Order of the Kings Majesty, his Heirs or Successors, under his or their Sign Manual, or by order of the Council-Table of his Majesty, his Heirs or Successors, directed unto the Attorney General for the time being, or some other of the Council learned to his Majesty, his Heirs or Successors for the time being : Nor shall any Person or Persons by vertue of this present Act incur any the Penalties herein before mentioned, unless he or they be prosecuted within six months next after the offence committed, and indicted thereupon within three months after such prosecution ; any thing herein contained to the contrary notwithstanding.*

This word (Nor) is a continuation of the former Sentence, and the exception of High Treason will go through all, and except that out of the temporary limitation of Treason : But this is High Treason within 25 E. 3. To conspire to levy War, is an Overt Act to testify the design of the death of the King. And the error of my Lord Cook hath possibly led my Lord into this mistake. But this, Gentlemen, hath been determined ; it was resolved by all the Judges in the Case of my Lord Cobham, 1 Jac. A Conspiracy to levy War against the Kings person (as this was a Conspiracy to seize the Guards) what does that tend to, but to seize the King ? and that always hath been taken to be High Treason. But there are some things called levying of War in Law, that are not so directly against the King ; as if a number of men go about to levy men to overthrow all Inclosures, this by the generality of the intent, and because of the consequences, is accounted levying War against the King. A Conspiracy therefore to levy such a War which by construction only is against the King, perhaps that may not be such an Overt act as to testify the imagination of the death of the King ; but other Conspiracies to raise War against the King have always so been taken. 'Tis the Resolution of all the Judges in my Lord Dyers Reports, the Case of Dr. Story. A Conspiracy to invite a forrein Prince to make an Invasion, though no Invasion follow, is an Overt act to prove conspiring the death of the King. And as it has been so taken, so it hath been practised but of late days. In the King's Bench I take it, the Indictment against Plunket that was hanged, he was indicted for Conspiring against the Life of the King, and his Charge went no further than for raising of Arms, and inviting the French King in ; and he suffered. This is acknowledged by my Lord Cook for he himself said in the Paragraph before that out of which this advice to my Lord Russel is extracted, That a Conspiracy to invite a forein Prince to invade the Kingdom, is a Conspiracy against the Life of the King. And in the next Paragraph, he says an Overt act of one Treason cannot be an Overt act of another Treason ; but constant practice is against him in that : For what is more common, than to indict a man for imagining the death of the King, and to assign the Overt act in a Conspiracy to raise Arms against the King ? and sometimes they go on and say, Did levy War against the King. Now by my Lord Cook's rule, levying War, unless the Indictment be particular for that, is not an Overt act for the compassing the death of the King ; but the contrary hath been resolved by all the Judges in the Case of Sir Henry Vane, and it is the constant practice to lay it so in Indictments. It would be a strange construction if this should not be High Treason. 'Tis agreed by every body, to take the King Prisoner, to seize the King, that is a compassing of the death of the King : And to sit in counsel to conspire to effect that, that is an Overt act of the imagination of the death of the King : now no man can distinguish this case from that. And this Consultation amounted to all this ; for plainly thither it tended. The Consultation was to seize upon the Kings Guards, that could have no other stop but to seize upon the Kings person, and bring him into their power. As to the Killing of the King, I am apt to think that was below the honour of the Prisoner at the Bar ; but this is equal Treason : If they designed only to bring the King into their power, till he had consented to such things as should be moved in Parliament, 'tis equally Treason as if they had agreed directly to assassinate him. Therefore I think there is nothing for you to consider, but to see that the fact be fully proved ; and I see nothing that hath been said by my Lord Russel that does invalidate our Evidence. He hath produced several Witnesses, persons of Honour : my Lord Anglesey he tells you of a discourse my Lord Howard had with my Lord of Bedford ; That he told my Lord of Bedford that he needed not to fear, for he had a wife and understanding Son, and could not think he should be guilty of any such thing as was laid to his charge. This is brought to invalidate my Lord Howard's testimony. Gentlemen, do but observe, My Lord Howard was as deep in as any of them, and was not then discovered : is it likely that my Lord Howard, that lay hid, should discover to my Lord of Bedford

Bedford that there was a Conspiracy to raise Arms, and that he was in it? This would have been an aspersion upon my Lord of *Bedford*, that any such thing should have been said.

Mr. Edward Howard is the next, and he proves, That my Lord *Howard* used solemn protestations that he knew nothing of this Conspiracy. I did observe, that worthy Gentleman in the beginning of his discourse (for it was pretty long) said first that he had been several times tempting my Lord *Howard* to come over, and be serviceable to the King, and if he knew any thing, that he would come and confess it. Why Gentlemen *Mr. Howard* that had come to him upon these Errands formerly, and had thought he had gained him, I conceive you do not wonder if my Lord *Howard* did not reveal himself to him, who presently would have discovered it, for that Errand he came. But if my Lord had had a design to have come in and saved his Life, he would have made his submission voluntarily, and made his Discovery. But my Lord tells nothing till he is pinched in his Conscience, and confounded with the guilt (being then in custody) and then he tells the whole truth, that which you have heard this day.

Gentlemen, this hath been all that hath been objected against the Witnesses, except what is said by *Dr. Burnet*; and he says that my Lord *Howard* declared to him, that he believed there was no Plot, and laughed at it. Why Gentlemen, the *Dr.* would take it ill to be thought a person fit to be intrusted with the discovery of this; therefore what he said to him signifies nothing, for 'tis no more than this, that he did not discover it to the *Dr.*

But the last Objection (which I see there has been a great many persons of Honour and Quality called to) is, That 'tis not likely my Lord *Russel* should be guilty of any thing of this kind, being a man of that Honour, Vertue, and so little blameable in his whole Conversation. I do confess Gentlemen this is a thing that hath weight in it. But consider on the other hand, my Lord *Russel* is but a man, and hath his Humane frailties about him. Men fall by several temptations; some out of revenge, some by malice fall into such offences as these are: my Lord *Russel* is not of that temper, and therefore may be these are not the ingredients here. But Gentlemen, there is another great and dangerous temptation that attends people in his circumstances, whether it be Pride, or Ambition, or the cruel snare of Popularity, being cryed up as a Patron of Liberty. This hath been a dangerous temptation to many, and many persons of Vertue have fallen into it, and 'tis the only way to tempt persons of Vertue; and the Devil knew it, for he that tempted the Pattern of Vertue, shew'd him all the Kingdoms of the world, and said, *All these will I give thee, if thou wilt fall down and worship me.* Though he be a person of Vertue, yet it does not follow, but his Vertue may have some weak part in him. And I am afraid, these temptations have prevailed upon my Lord. For I cannot give my self any colour of objection, to disbelieve all these Witnesses who give in their testimony. I see no contradiction, no correspondence, no contrivance at all between them. You have plain Oaths before you, and I hope you will consider the weight of them, and the great consequence that did attend this case, the overthrow of the best Government in the world, and the best and most unspotted Religion, which must needs have suffered; the greatest Liberty and the greatest Security for Property that ever was in any Nation, bounded every way by the rules of Law, and those kept Sacred. I hope you will consider the weight of this Evidence, and consider the consequences such a Conspiracy, if it had taken effect, might have had. And so I leave it to your consideration upon the Evidence you have heard.

Sir Geo. Jefferies. My Lord, and you Gentlemen of the Jury, this Cause hath detained your Lordship a long time, by reason of so many Witnesses being called, and the length of the defence made by the Prisoner at the Bar; and if it had not been for the length I would not have injured your patience by saying any thing, *Mr. Solicitor* having taken so much pains in it. It is a duty incumbent upon me, under the circumstances I now stand, to see if any thing hath been omitted that hath not been observed to you; and I shall detain you with very few words.

Gentlemen, you must give me leave to tell you, 'tis a Case of great consequence, of great consequence to that Noble Person that now is at the Bar, as well as to the King: for it is not desired by the King nor by his Counsel, to have you influenced in this matter by any thing but by the truth, and what Evidence you have received. You are not to be moved by compassion or pity: the Oath you have taken is to go according to your Evidence; and you are not to be moved by any insinuations that are offered by us for the King, nor by any insinuations by the Prisoner at the Bar; but the truth according to the Testimony given, must be your Guide. How far the Law will affect this Question, that we are not to apply to you for; for that we are to apply our selves to the Court (they are the Judges in point of Law) who will take so much care in their directions

ons to you, that you may be very well satisfied you will not easily be led into error: For the instances that have been put, I could put several others; But I will take notice only of one thing that that Noble Person at the Bar seems to object: Gentlemen, it is not necessary there should be two Witnesses to the self-same Fact at the self-same time; but if there be two Witnesses tending to the self-same Fact, though it was at several times, and upon several occasions, they will be in point of Law two Witnesses which are necessary to convict a man for High-Treason. Gentlemen, I make no doubt this thing is known to you all, not only by the Judgment of all the Judges in England, but the Judgment of the Lords in Parliament, when I doubt not the Prisoner at the Bar did attend in the Case of my Lord *Stafford*, wherein one Witness gave an account of a Conspiracy in England, *Turberville* of another in France; and by the Opinion of all my Lords the Judges, approved in Parliament, that was enough, and he was convicted.

The Question is, whether we have sufficiently proved this matter. Gentlemen, I must tell you, we rake no Gaols, nor bring any profligate Persons; Persons that wanted faith or credit before this time. I must tell you, that notwithstanding the fair notice that hath been given to the Prisoner at the Bar (that you see he hath taken an advantage of it, he hath given an account of a private Conversation with my Lord *Howard* before that Noble Person that was Witness against him was taken) he has not given you in all his Proof hitherto, nay I say, he has not pretended any thing in the world: wherefore you, Gentlemen, that are upon your Oaths, should take it upon your Consciences, that two men, against whom there is no Objection, should come to damn their own Souls to take away the life of this Gentleman; when there is no Quarrel, no Temptation wherefore these Gentlemen should come in the face of a Court of Justice, in the face of such an Auditory, without respect to that infinite Being to whom they appeal for confirmation of the truth of their Testimony: And if they had the faith of men or Christians, they must necessarily conclude, that if they did swear to take away a man's life that was innocent, God would sink them down presently into Hell.

Gentlemen, in the next place I must acquaint you, that the first Witness, *Col. Romsey*, it is apparent he was taken notice of by the Prisoner as a man fit to be trusted; he was engaged by my Lord *Shaftsbury*: But, says he, would any man believe that that man that had received so many Marks of the Kings Favour, both in advantage to his Estate, his Honour, and Person, could be ever contriving such an Hellish Design as this? Gentlemen, if you will argue from such uncertain Conjectures, then all Criminals will come off. Who should think that my Lord of *Essex*, who had been advanced so much in his Estate and Honour, should be guilty of such desperate things! which had he not been conscious of, he would scarcely have brought himself to that untimely end, to avoid the methods of publick Justice. *Col. Romsey* tells you my Lord *Shaftsbury* was concerned in this Conspiracy. I am sorry to find that there have been so many of the Nobility of this Land that have lived so happily under the benign influence of a gracious Prince, should make so ill returns. Gentlemen, I must appeal to you whether in your observation you found *Col. Romsey* to be over-hasty and an over-zealous Witness; he did not come as if he came in spite to the Prisoner at the Bar: you found how we were forced to pump out every thing; but after he had been pressed over and over again, then he came to it: So that I observe to you, that he was an unwilling Witness.

Gentlemen, give me leave to observe to you, the Prisoner at the Bar, before such time as *Mr. Sheppard* came up and gave Evidence against him, says he, I come only by accident, only to taste a parcel of wine. *Mr. Sheppard* when he comes up, he tells you, there was no such design. *Ferguson* (that was the person he kept company with, the Reverend Dean and the rest of the Clergy of the Church of England, they were not fit to be trusted with it, but this Independent Parson *Ferguson*) he gives notice of the coming of these persons; and in pursuance of this notice they all come, they come late, in the evening; not in the posture and quality they use to go, for you find they had not so much as a Coach. Is it probable they came to taste Wine? Wherefore did they go up into a room? Wherefore did they order *Mr. Sheppard* that none of the Boys should come up, but that the Master must fetch the Sugar and Wine himself? wherefore you may perceive the action they were upon, there were only to be such persons as had an affection for such a cause. You find pursuant to what *Col. Romsey* says, that there was a direction to take a view of the Guards, that *Sir Tho. Armstrong* comes back and makes this Report: says he, I have taken notice they are in such an idle careless posture, that it is not impossible to surprize them. This *Mr. Sheppard* he does not come, nor does he appear to you to come here out of any vindictive humor, to do the Prisoner at the Bar any hurt.

In the next place we have my Lord *Howard*, he comes and positively tells you after he had given an account (for you observe there were two parts to be acted in this horrid Tragedy; there was first the Scoundrel sort of people were to be concerned to take away the Life of the King and the Duke, the Great persons were to head the party in the Rising) they put themselves in proper postures, each of them consenting to something of the Surprize, inasmuch as you observe that Sir *Thomas Armstrong* and some other persons might not be trusted. They come and resolve themselves out of a General Council, and they meet in a particular Council of Six, looking upon themselves as the Heads of the Party: And I must tell you many of them (we live not in an Age of such obscurity, but we know them) how fond have they been of the applause of the people! As that person encouraged himself yesterday, they were *Liberatores Patriæ* that could murder the King and the Duke.

My Lord, I must take notice that this Noble Lord is known to have an intimacy with him; you observe with how much tenderness he is pleased to deliver himself, how carefully he reports the Debates of the particular Consults of the persons to be intrusted in the management; he tells you that Noble Lord the Prisoner at the Bar was pitched upon, and *Algernone Sidney*, a man famous about the Town, for what? To call in parties from some of his Majesties other Dominions, persons we know ripe enough for Rebellion, to assist. Pursuant to this, you find persons sent of a Message for some to come over, whereof some are in hold: So that for all dark and obscure sort of matters, nothing can be brought better to light than this, of taking all matters together, with the concurring Circumstances of Time and Place.

Gentlemen, I must confess this Noble Lord hath given an account by several Honourable persons of his Conversation; which is a very ealie matter. Do you think if any man had a design to raise a Rebellion against the Crown, that he would talk of it to the Reverend Divines, and the Noble Lords that are known to be of Integrity to the Crown? Do you think the Gentleman at the Bar would have so little concern for his own life, to make this Discourse his ordinary Conversation? No, it must be a particular Consult of Six, that must be intrusted with this. I tell you, 'tis not the Divines of the Church of *England*, but an Independent Divine, that is to be concerned in this; they must be persons of their own complexion and humour. For men will apply themselves to proper instruments.

Gentlemen, I would not labour in this case; for far be it from any man to endeavour to take away the life of the innocent. And whereas that Noble Lord says, he hath a virtuous good Lady, he hath many Children, he hath Vertue and Honour he puts into the Scale: Gentlemen, I must tell you on the other side, you have Consciences, Religion; you have a Prince, and a merciful one too; consider the life of your Prince, the life of his Posterity, the consequences that would have attended if this Villany had taken effect. What would have become of your Lives and Religion? What would have become of that Religion we have been so fond of preserving? Gentlemen, I must put these things home upon your Consciences. I know you will remember the horrid Murder of that most pious Prince the Martyr, King *Charles the First*. How far the practices of those persons have influenced the several punishments since, is too great a secret for me to examine. But now I say you have the life of a merciful King, you have a Religion that every honest man ought to stand by, and I am sure every Loyal man will venture his Life and Fortune for. You have your Wives and Children. Let not the greatness of any man corrupt you, but discharge your Consciences both to God and the King, and to your Posterity.

L.C.J. Gentlemen of the Jury, the Prisoner at the Bar stands indicted before you of High Treason, in compassing and designing the death of the King, and in declaring of it by Overt acts, endeavouring to raise Insurrections and popular Commotions in the Kingdom here. To this he hath pleaded Not Guilty. You have heard the Evidence that hath been against him, it hath been at large repeated by the Kings Counsel, which will take off a great deal of my trouble in repeating it to you again. I know you cannot but take notice of it, and remember it, it having been stated twice by two of the Kings Counsel to you; 'tis long, and you see what the parties here have proved. There is first of all Col. *Romsey*, he does attest a Meeting at Mr. *Sheppard's* house, and you hear to what purpose he says it was, the Message that he brought, and the Return he had; it was to enquire concerning a Rising at *Tannton*; and that he had in return to my Lord *Shaftsbury* was, that Mr. *Trenchard* had failed them, and my Lord must be contented, for it could not be that time. You hear that he does say that they did design a Rising; he saith there was a Rising designed in *November*, I think he saith the 17th, upon the day of Queen *Elizabeth's* birth. You hear he does

does say, there was at that Meeting some discourse concerning inspecting the Kings Guards, and seeing how they kept themselves, and whether they might be surprized; and this he says was all in order to a Rising. He says that at this my Lord Russel was present. Mr. Sheppard does say, that my Lord Russel was there: That he came into this Meeting with the Duke of Monmouth, and he did go away with the Duke of Monmouth as he believes. He says there was some discourse of a Rising or Insurrection that was to be procured within the Kingdom; but he does not tell you the particulars of any thing, he himself does not. My Lord Howard afterwards does come and tell you of a great discourse he had with my Lord Shaftsbury in order, to a Rising in the City of London, and my Lord Shaftsbury did value himself mightily upon 10000 men he hoped to raise; and a great deal of discourse he had with my Lord Shaftsbury. This he does by way of inducement to what he says concerning my Lord Russel. The Evidence against him is some Consults that there were by Six of them, who took upon them, as he says, to be a Council for the management of the Insurrection that was to be procured in this Kingdom. He instances in two that were for this purpose; the one of them at Mr. Hambden's house, the other at my Lord Russel's house. And he tells you at these Meetings there was some discourse of providing Treasure, and of providing Arms, but they came to no result in these things. He tells you, that there was a design to send for some of the Kingdom of Scotland that might joyn with them in this thing. And this is upon the matter the substance of the Evidence that hath been at large declared to you by the King's Counsel, and what you have heard. Now, Gentlemen, I must tell you, some things it lies upon us to direct you in.

My Lord excepts to these Witnesses, because they are concerned by their own shewing in this Design: If there were any, I did direct (some of you might hear me) yesterday, that that was no sufficient exception against a mans being an Evidence in the case of Treason, that he himself was concerned in it; they are the most proper persons to be Evidence, none being able to detect such Councils but them. You have heard my Lord Russels Witnesses that he hath brought concerning them, and concerning his own integrity and course of life, how it has been sober and civil, with a great respect to Religion, as these Gentlemen do all testify. Now the Question before you will be, whether upon this whole matter you do believe my Lord Russel had any design upon the Kings life, to destroy the King, or take away his life, for that is the material part here. 'Tis used and given you (by the King's Counsel) as an evidence of this, That he did conspire to raise an Insurrection; and to cause a Rising of the people, to make as it were a Rebellion within the Nation, and to surprize the King's Guards, which say they can have no other end but to seize and destroy the King; and 'tis a great evidence (if my Lord Russel did design to seize the King's Guards, and make an Insurrection in the Kingdom) of a design for to surprize the King's Person. It must be left to you upon the whole matter: You have not evidence in this Case as there was in the other matter that was tried in the morning or yesterday, against the Conspirators to kill the King at the Rye. There was a direct evidence of a Consult to kill the King, that is not given you in this Case; this is an act of contriving Rebellion and an Insurrection within the Kingdom, and to seize his Guards, which is urged as an evidence, and surely is in it self an evidence to seize and destroy the King.

Upon this whole matter this is left to you. If you believe the Prisoner at the Bar to have conspired the death of the King, and in order to that to have had these Consults that these Witnesses speak of, then you must find him Guilty of this Treason that is laid to his Charge.

Then the Court adjourned till four a Clock in the Afternoon, when the Jury brought the said Lord Russel in Guilty of the said High Treason.

The Tryal of JOHN ROUSE.

Thursday July 12. John Rouse and William Blagg being set to the Bar, and after holding up their Hands, the following Indictment was read.

London. **T**He Jurors for our Sovereign Lord the King, upon their Oaths present, That John Rouse late of London Gent. and William Blagg late of London Gent. as false Traytors against the most Illustrious and Excellent Prince our Sovereign Lord Charles the Second, by the Grace of God of England, Scotland, France, and Ireland, King, their natural Lord, not having

having the Fear of God in their hearts, nor weighing the Duty of their Allegiance, but being moved and seduced by the instigation of the Devil; and the true Duty and natural Obedience which true and faithful Subjects of our Sovereign Lord the King towards him our said Lord the King do bear, and of right ought to bear, wholly withdrawing, and with their whole strength intending the Peace and common Tranquillity of this Kingdom of England to disturb, and War and Rebellion against our said Lord the King to move and stir up; and the Government of our said Lord the King within this Kingdom of England to subvert; and our said Lord the King from his Title, Honour, and Kingly name of the Imperial Crown of this his Kingdom of England to put down and deprive, and our said Lord the King to Death and final Destruction to bring and put, the second day of March, in the year of the Reign of our Sovereign Lord Charles the Second King of England, &c. the five and thirtieth; and divers other days and times, as well before as after, at the Parish of St. Michael Bassithaw in the Ward of Bassithaw, London, maliciously and traitorously with divers other Traytors to the Jurors aforesaid unknown, they did Conspire, Compass, Imagine, and Intend our said Lord the King their Supream Lord, not onely of his Kingly State, Title, Power, and Government of this his Kingdom of England to deprive and throw down, but also our said Lord the King to kill, and to death to bring and put; and the ancient Government of this his Kingdom of England to change, alter, and wholly to subvert, and a miserable Slaughter amongst the Subjects of our said Lord the King through his whole Kingdom of England to cause and procure, and Insurrection and Rebellion against our said Lord the King to move and stir up within this Kingdom of England. And so fulfil and perfect the said most horrible Treasons and traiterous Conspiracies, Imaginations, and Purposes aforesaid, the said John Rouse and William Blagg, then and there, and divers other days and times, as well before as after, as false Traytors, maliciously, traiterously, and advisedly they did assemble, meet together, and consult between themselves and with the said other Traytors to the Jurors aforesaid unknown, and with them did treat of taking and seizing the Tower of London, and of and for the executing and perfecting their Treasons and traiterous Compassings, Imaginations, and Purposes aforesaid. And that they the said John Rouse and William Blagg, as false Traytors, maliciously, traiterously, and advisedly, then and there, and divers other days and times, as well before as after, they and either of them did undertake, and to the said other Traytors did promise for themselves to be aiding and assisting in the Execution of the Treasons and traiterous Compassings, Imaginations, and Purposes aforesaid, and in providing Arms and armed men to fulfil and perfect the said Treasons and traiterous Compassings, Imaginations, and Purposes aforesaid. And the said most wicked Treasons and traiterous Compassings, Imaginations, and Purposes aforesaid to fulfil and bring to pass, they the said John Rouse and William Blagg, as false Traytors, maliciously, traiterously, and advisedly, then and there did procure and prepare Arms, to wit, Blunderbusses, Carbines, and Pistols; against the Duty of their Allegiance, against the Peace of our Sovereign Lord the King, his Crown and Dignity, and against the form of the Statutes in that case made and provided, &c.

Cl. of Cr. What sayest thou, John Rouse, art thou guilty of this High-Treason whereof thou standest indicted, or not guilty? Rouse. Not guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Rouse. By God and my Country.

Cl. of Cr. God send thee a good deliverance. What sayest thou, William Blagg, art thou guilty of this High-Treason whereof thou standest indicted, or not guilty?

Capt. Blagg. Not guilty.

Cl. of Cr. Culprit, how wilt thou be tried?

Capt. Blagg. By God and my Country.

Cl. of Cr. God send thee a good deliverance.

Friday July 13, in the afternoon, the Court being met, and Proclamation made,

Cl. of Cr. Set John Rouse and William Blagg to the Bar. You the Prisoners at the Bar, these good men that you hear called, are to pass between our Sovereign Lord the King upon tryal of your several lives and deaths; if you will challenge them or any of them, your time is as they come to the Book to be sworn, before they are sworn. Nicholas Charlton.

Capt. Blagg. I hope I shall onely speak for my self.

L. C. J. Yes, you shall be heard.

Rouse.

Rouse. My Lord, I have had no liberty so much as sending for my Wife. *Monday* Morning they gave me notice of Tryal, but I have had no advantage of that notice; I presumed it is meant we should have the liberty of Subjects, but though notice was then given, yet I had not the liberty of sending for any body till *Wednesday*. It was 8 or 9 of the Clock on *Wednesday* night that one came and told me, I should have no liberty of Counsell unless I had it from the Court; and yesterday morning I found that Captain *Blage* and I were joyned in one Indictment, which alters the case with submission to the Court. What time I have had for Tryal has been so short, I have not been able to get my Witnesses ready. I desire nothing but as an *English* man.

L. C. J. As an *English-man* you can demand no time to prepare for Tryal, for those that will commit crimes they must be ready to answer for them, and defend themselves. 'Tis Matter of Fact you are charged with, you knew long agoe what you were to be Tryed for, for you were taken up and charged with High Treason. You might then reasonably consider what kind of Evidence would be against you; if you be an innocent person you may defend your self without question. But if you have done an ill thing, the Law does not design to give you time to shelter your self under any subterfuge, or make any excuse, or to prepare any Witnesses to testify an untrue thing for you.

Rouse. My Lord, I only beg a little time, I don't design to make any evasion, That I am innocent I thank God I am.

L. C. J. We can't give you any further time unless the King pleases, we are bound to Try those he brings before us.

Sir G. Jeff. Because Captain *Blage* does desire not to be joyned to the other, we that are for the King are contented, that *Rouse* be Tryed first.

[Then Captain *Blage* was taken away, and after several Persons challenged by *Rouse*, the Jury that were Sworn were]

Robert Beddingfeild,
John Pelling,
William Windbury,
Theophilus Man,
John Short, Senior.
Thomas Nicholas,

Richard Hoare,
Thomas Barnes,
Henry Robbins,
Henry Kempe,
Edward Raddish,
Edward Kempe.

Cl. of Cr. John Rouse, Hold up thy hand. You of the Jury look upon the Prisoner and hearken to his Cause; he stands Indicted — *Prons antea* in the Indictment *Mutatis Mutandis*; upon this Indictment he hath been Arraigned, and thereunto Pleaded *Not Guilty*, and for his Tryal put himself upon his Country, which Country you are, your Charge is to inquire, &c.

Mr. Jones. May it please your Lordship, and you Gentlemen of the Jury, the Prisoner at the Bar stands Indicted for High Treason, in conspiring the Death of the King, and in order thereunto consulting how to seize the Tower, and in providing of Arms in order to destroy the King and subvert the Government; if we prove it upon him, you are to find him *Guilty*.

Sir G. Jeff. The Prisoner at the Bar was (as you have been acquainted) in that horrid conspiracy, whereof several of the Conspirators have been brought to Tryal, and received a Verdict surely according to Evidence. The Prisoner at the Bar did bear a proportion among the rest. It does occur to your memorys, There were several undertakers that undertook several stations; some whereof were to undertake the blackest part of this horrid Villany, by the taking off the King and his R. Highness his Brother; others (in order to the same design) were to seize upon the King's Guards, and so to deprive him of all manner of defence whatsoever, and to prevent all persons to make any defence against them, as you heard there was another part to be acted, therefore the Town was to be divided into several Divisions, I think there was Twenty, but the most numerous and beneficial parts were thought to be about *Wapping*. A particular part of the Evidence was, that the Tower was to be seized and the Kings Arms there, I know you observed that they took notice of a particular place of the Tower that was most capable of access. This *Rouse* is a Gentleman very well known, 'tis not the first time he hath been at this Bar: He was here at a time when the common justice of the Nation could not be obtained in this place, in so much that the Judges who came to execute Justice, had more reason to fear being executed upon the Bench than the Prisoner at the Bar. It may easily appear how

far Mr. Rouse was concerned (I don't love to aggravate matters, he has crimes enough) he was reckoned Pay matter to this rabble, he was to take care to manage those persons that were to seize upon the Tower. He is a man of great skill in that subject, a Doctrine wherein he was well tutored under a Lord you heard mentioned this morning, but he is in his grave and so I shall say no more of him. We shall give you an account of a design he had how to compass this business. *Black heath* was looked upon as a convenient place, where there was to be a Golden Ball, for which the Sea-men were to play in great numbers, and he that won the prize was to have the Golden Ball, but his eye was upon the Tower all this while. He thought to allure these silly Sea-men by the advantage of the honourable winning of this Ball, and when they were fraught with the success of this meeting, then it was proper to attack the Tower. We shall prove the other Prisoner that was at the Barr engaged with this Prisoner at the Barr. We shall not only prove this, but that Mr. Rouse hath been always of an inclination against the Government. We shall call you Witnesses, that he hath undertaken to dispute by what Authority the King comes to govern into *England*, that he hath said *he had forfeited his Government*, that he told an ordinary Misdemeanor one of his Levellers, *that he had as much right to the Crown as he had*. My Lord, if we prove this matter to your Lordship, and the Gentlemen of the Jury, it will be high time for us to endeavour to preserve the Crown upon that Royal Head, upon which all Loyal men desire it should flourish as long as the Sun and Moon endure.

Mr. Burton. Call *Thomas Leigh*.

(Who was Sworn.)

Mr. Jones. Pray give us an account what you know concerning Mr. Rouse.

Mr. North. Of any design against the King, and providing Arms.

Rouse. If it please you my Lord, one word before he speaks: I have an exception against him. I wonder with what confidence you can look in my face at this time.

Kings Counsell. Nay, nay, speak to the Court.

Rouse. My Lord, he is a person that before he was taken up, was sworn by two persons to have a hand in the Plot, one was Mr. Keeling, the other Mr. How of Old Street, and then being taken up, and conscious to himself that he was Guilty of such notorious crimes, and knowing I was pretty well acquainted with him, he was deadly afraid I should come and Swear against him, and thereupon he took the boldness to swear against me first.

Mr. North. My Lord, he hath offered nothing of Objection.

Rouse. I suppose with submission to the Court, without he have his Pardon, he is no Evidence in this case.

Sir G. Jeff. Come tell us all you know.

Mr. Leigh. If it please you my Lord, I have been concerned in this Conspiracy, I know something of it, but I believe Mr. Rouse knows a great deal more. Mr. Rouse takes me to the *Kings head Tavern in Smiths-Alley*, where after some time Mr. Goodenough came, where there was a Clubb of men that was in the Conspiracy. I had seen Mr. Goodenough before, he acquainted me that there was an apprehension our Rights and Privileges were Invaded, and it was time to look to our selves, for *Pepery* was designed, and *Arbitrary power*; and therefore he desired to know whether I would engage in that affair to prevent it, and withall he told me, the City of London and *Middlesex* was divided in Twenty-parts, and he asked me to engage in one part. I told him, my acquaintance did not ly where I lived, but I would get a part where my acquaintance was. I acquainted Mr. Rouse and Mr. Goodenough what men I had spoke to. Mr. Goodenough told me, the design was to set up the Duke of *Monmouth*, and kill the King and the Duke of York, but that all Parties must not know of it: But that we must tell some people there was like to be a Foreign Invasion, and ask them what readiness they were in, and if we found they were like to be compliant in that, then we might discourse with them about the other matter. I discoursed with several men about this affair: and he told me, the Lord Mayor and Aldermen were to be killed immediately, (especially the present Lord Mayor Sir *John Moor*) and their houses plundered, and there would be Riches enough, and that would help to maintain the Army, and we went on further in this discourse. Then I acquainted Mr. Rouse with this business, but he knew of it before, and he did tell me he could provide Arms for an Hundred men, and said nothing was to be done unless the King was seized; saying, we remember since *Forty One* the King went and set up his standard; Therefore (says he) we will seize them, that they shall not set up their Standard. But (says he) I am for seizing them, but not for shedding their blood. Mr. Rouse went off with that discourse, says he, I must speak with Mr. Goodenough and some of those that are principally concerned. Mr. Rouse acquainted me, that it was a very convenient thing to have

a Ball played upon *Black-Heath*, and to that end we must speak to some Sea Captains; and (says he) I will ingage Ten, and they shall manage that affair, and he that wins the Ball take it. But when they have so done, every Captain shall take his Party, and tell them they have other work, and then go with long Boats and Arms and seize the Tower. I acquainted Mr. *Goodenough* with this, and Mr. *Goodenough* asked me the charge of the Golden Ball, Mr. *Rouse* had told me it would be Ten or a Dozen Pounds; Mr. *Goodenough* said, if it was Forty Pound he would be at the charge of it all. Several such discourses Mr. *Rouse* hath in my hearing spoke to several men at the *Kings-Head Tavern*. I understood I was Sworn against, I heard of it at the *Kings Head Tavern* in his Company and Mr. *Goodenough's*. Mr. *Rouse* directed me to go to the *Sun Tavern* near *Moorgate*, and he would come to me, and there Mr. *Rouse* and Mr. *Goodenough* came to me, and Mr. *Rouse* told me I should ly at his house. Mr. *Rouse* cut off my hair, and went to Mr. *Bateman's* and fetched me a *Perriwigg*; Mr. *Rouse* and I went several times to view the Tower, and took Mate *Lee* along with us. So Mate *Lee* directed us to *Traitors-Bridge*, and he said that was an easy place, and he would undertake to do it with an Hundred men, so they had but hand *Granadoes*. We had some time before that appointed to meet at *Wapping*, to speak with the Sea-Captains. Mr. *Rouse* met the first day in order to this business at the *Amsterdam Coffee house*, and there Mr. *Rouse* met with two Sea-Captains (as he told me, that were to officiate in this business), and the Two Captains he took to the *Angel and Crown* in *Threadneedle-street*. A small time after, about an hour and a half or thereabouts, Mr. *Rouse* came, (I am not positive whether Mr. *Goodenough* were there or no) and told me, he had spoke to both the Sea-Captains, and they were willing, but one was going to *New Jersey*, and therefore the work must be done before he went, or he could not assist: another time he appointed Mate *Lee* to meet at the *Anchor* in *Wapping*. I did speak to Mr. *Goodenough*, but he did not meet us, so that we could not go down that day, but Mr. *Rouse* always undertook that business to get Ten Sea-Captains, and get Armes for an Hundred men. After I was Sworn against, and went to Mr. *Rouse's* house; the next day Mr. *Nelthrop* and Mr. *Goodenough* came to me to Mr. *Rouse's*, says Mr. *Rouse* be not discouraged, let the business go on. I was directed by Mr. *Nelthrop* and Mr. *Goodenough* when ever I was taken into Custody I should deny all, and it could not touch my life. I thank him for his kindness, I lay well, and eat well at his house, my Lord; but however I will tell the truth. We met afterwards several times, and went to Captain *Blage's*, and the rest of the Company, but at different places. We had an account that Mr. *Goodenough* was in the North railing men, and that the Duke of *Monmouth* was thereabouts, and that a deliverance should be wrought for all this.

L. C. J. About what time was this?

Mr. *Leigh*. In last June. The design was so laid, that I was told it was to be done in a Fortnight. They never agreed on a way or method of killing the King, but they told me they had a Thousand Horse ready in the Country, and that there was Five Hundred Horse or thereabouts ready in the Town, and that the King should be killed coming from *Windsor*. Now they were contriving how to send Arms that they might not be suspected to some private place, they were to be sent in Trunks to some private house, and there they were to Arm themselves in the Night, and some brick men were to go to *Windsor* to know when the King came, and give Information, and so they were to set upon him in some convenient place, and both were to be taken off together, the King and the Duke; and Mr. *Rouse* said, take them off, and then no man can have Commission to fight for them.

Sir G. Jeff. He is a Politician every inch of him.

Mr. *Jones*. What did he imploy you to do?

Mr. *Leigh*. I was imployed by Mr. *Goodenough* to make all the friends I could in this Ingagement. I went into *Spittle-fields* and ingaged some Weavers and other people. They promised me a gratuity, but I never had any thing.

Sir G. Jeff. If Mr. *Rouse* has a mind to ask him any questions.

Rouse. I will my Lord.

L. C. J. Propose your questions to the Court.

Rouse I ask him by the Oath he has taken, whether ever I spake with him of any design against the King and Government? I ask you whether you did not begin with me?

L. C. J. You hear his question, answer it.

Mr. Leigh. For that I answer, that *Mr. Rouse* was the first man that ever I heard propose that the King and the Duke should be secured, and there is another thing come in my mind, *Mr. Rouse* hath been a Traveller, he did presume to say, and has said to me, and in Company, that the King was Sworn in *France* and *Spain* to bring in *Papery* and *Arbitrary power* in so many years, and therefore it was no sin to take him off, and he told me he had it under his own hand.

Rouse. It was impossible my Lord.

Sir G. Jeff. I do beleive it. I do not believe he thought thee fit to be a Secretary.

L. C. J. Look you, if you would have any thing asked him, propose it to me.

Rouse. What place was it I began to speak of any thing of this design?

Mr. Leigh. The *Kings-head*.

Rouse. Who was with us?

Mr. Leigh. *Mr. Goodenough* and several others.

Rouse. Was it discoursed of before them?

Mr. Leigh. No, You never discoursed of it before them.

Rouse. You discoursed of going an Hay-making in the Country, says you, I will trust them one alone, but says you I am under an Oath of Secresy not to communicate it but to one at a time, but I make bold to acquaint you with it; I give you an accompt what I heard from his own mouth.

L. C. J. Look you, what you heard from him will signify nothing unless you are able to make proof of it by other Witneses: If you will ask him any questions you shall. We will hear what you can say for your self at last. But you must not Invade the Kings Evidence with any discourse at Randome.

Rouse. Did I ever put you upon any thing of this nature? did you not tell me, there was a design to overturn the Government, but you would not shed blood?

Mr. Leigh. I will answer; I can't be positive whether I came to *Mr. Rouse* or he to me. I had been in his Company several times before, and whether he discoursed it first to me or I to him I cannot tell, but when that point was discoursed, he was very zealous to get en Captains, and that the Ball might be played and the Tower taken.

Rouse. Dd ever *Mr. Goodenough* and you and I meet upon such an accompt?

Mr. Leigh. Yes, at the *Kings-head* Tavern.

Rouse. I can take my Oath I never saw *Mr. Goodenough* but twice in your Company, and I never knew you till *May* last.

Sir G. Jeff. You came to a very strict alliance by that time it came to *June*.

[*Mist Lee Sworn.*]

Sir G. Jeff. Tell my Lord and the Jury what you know, the whole truth, and nothing but the truth.

Lee. The whole truth I will tell. About a week before *Midsummer* or thereabouts I met *Mr. Rouse*, I think it was in *Popes-Head* Alley, going to look after Captain *Blage*: says *Mr. Rouse* I have something to say to you, but he did forbear speaking it then; so I went to the *Kings head* Tavern by the *Exchange*, we went into a little Room; says he, there is something I would have you do. Whats that? says I. Says he, can't you get some Sea-men fitting to make Commanders of Ships. I did not understand *Mr. Rouse's* meaning in it, but I thought *Mr. Rouse* being in Employment might put me in, being destitute of employment, as well as other men. So after we did appoint to meet at *Wapping*, at the sign of the *Blew Anchor* in *Wapping-Dock*. Says *Mr. Rouse*; if I come not at Ten of the Clock do not look for me. Says he, can you get no men that are fit to make Commanders of Ships? says I, I have no acquaintance with any, I do not know but Two or Three: but says I, I will see what I can do. I waited for *Mr. Rouse* and *Mr. Leigh* next day (both were to come.) The next day I asked him, what he intended by the Commanders of the Ships? where would he have those Ships? He answered some of the Kings Men of War that lay at *Deptford* and *Woolwich* to make Guard Ships. Says I, what will you do if you have no Powder and Shot? if you could take the Tower, then you might provide them with every thing fitting. Says *Mr. Rouse* we must secure the Tower and *Whitehall* both, or we can do nothing. Says I *Mr. Rouse*, where is your Oath of Allegiance then that is to the King? says he we will secure the King that he shall come to no damage, and he shall remain King still. If *Mr. Rouse* hath

ha h any thing to object against what I say, I desire to hear it, I speak nothing but the truth.

Sir G. Jeff. Did you meet with him at any other time?

Lee. This was the first time he put out any such thing to me, concerning any such contrivance.

Sir G. Jeff. Did you meet with him afterwards?

Lee. Yes, we had some discourse, it was to the same effect, but it signified nothing, and my memory being shallow I do not exactly remember it. I know I must give an account of this before a greater Court than this.

Mr. Burton, Mr. Corbin!

Sir G. Jeff. I did acquaint you, my Lord, that there was occasion to make use of Evidence against the Prisoner at the Barr, I gave you an account how that Evidence was not received. Now I desire to give you proof that the continual inclination of this man's heart was the Killing of the Kings, and destruction of the Government.

[Mr. Thomas Corbin Sworn.]

Sir G. Jeff. Pray Sir, tell my Lord and the Gentlemen of the Jury, what meetings you had heretofore with the Prisoner about the year Eighty One or thereabouts. See whether you know him.

Mr. Corbin. What I have to say against Mr. Rouse is only what I gave in Evidence to the Court before.

Rouse. When was that.

Mr. Corbin. In Eighty One.

L. C. J. Pray what do you know of him; don't tell us what you gave in Evidence, but you are on your Oath to speak truth, not what you said then.

Mr. Corbin. My Lord, Some few days before the Members for the City of London went for Oxford, I happened to appoint a Gentleman (one Mr. Wyat) to meet me at Mr. Leeches in Cornhill. Mr. Rouse came by, I knew him very well; he was concerned in the Commission for Disbanding the Army as well as I. He came in and Saluted not only me but the Master of the shop with *How do you?* He entred into discourse, and said he intended to go for Oxford, and that he had agreed with the Coffee men about Town to furnish them with News, says he, there are several Gentlemen resorting to your Shop, it would do well if you had it. says Mr. Leech. what shall I give you? says he, if you will go to the Tavern we will agree it over a Glas of Wine. But Mr. Rouse told me he had a kindness to beg of me, and (says he) I would have you engage some of your friends to deliver them speedily to such a person I shall appoint, *De Die in Diem*; for says he, if they be delivered by the ordinary Letter-Carrier, they won't turn to account, nor give satisfaction. By and by Mr. Wyat came in, (that I was to meet at the Stationers) Mr. Wyat asked me, what I thought of the Sessions? Mr. Rouse made answer he did foresee it would be a very short Sessions. says he, these frequent Prorogations and Dissolutions of the Parliament wont avail him, for what ever the King has, the Parliament gave him, and they may take it away, when they please. One bid him have a care what he said, and he replied, *the King had forfeited his Crown, and had no more right to it than he had.*

L. C. J. Mr. Rouse, If you would ask him any questions. pray direct your self to us and we will ask them.

Rouse. I desire he may be asked what was said before and after?

L. C. J. Can you tell him? do you know there was any previous or subsequent discourse to this, that might any way alter it?

Rouse. It was the same question propounded in Eighty One.

Mr. Justice Williams. Pray did he say the King had forfeited his Crown?

Mr. Corbin. Yes, and when he was rebuked for it, he reiterated it.

Sir G. Jeff. We will trouble your Lordship but with one peice of Evidence more, only to give you an account Mr. Rouse is a man very well known in the City of London, yet when there were Officers came to seize him he had forgot his name of Rouse, and did not remember it. Swear William Richardson, (which was done) pray tell my Lord and the Jury, whether you were at the taking of this Mr. Rouse, and what name he went by.

Mr. Richardson. I was upon the Fourth of July, instant, to search for one Armiger, and coming to Widow Hays Coffee-house (I think they call it) the Widow told me there was no man in the House; I went down the street and came back again, and one said he saw a man go into the Garden; says he do you stay here and I will go and see; he saw this Gentleman, says he, what is your name? he said Johnson. I asked him and he said Johnson, I told him we must have an account of him. Some said they did not know him. We went to the Half Moon Tavern, in Aldersgate street, he sent for other men, they said they did know him, but they could say nothing in his behalf.

L. C. J. You hear his question, answer it.

Mr. Leigh. For that I answer, that *Mr. Rouse* was the first man that ever I heard propose that the King and the Duke should be secured, and there is another thing come in my mind, *Mr. Rouse* hath been a Traveller, he did presume to say, and has said to me, and in Company, that the King was Sworn in *France* and *Spain* to bring in *Popery* and *Arbitrary power* in so many years, and therefore it was no sin to take him off, and he told me he had it under his own hand.

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Mr. Leigh. *Mr. Goodenough* and several others.

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Rouse. It was the same question propounded in Eighty One.

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Mr. Corbin. Yes, and when he was rebuked for it, he reiterated it.

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Sir G. Jeff. Is that the man, *Johnson*?

Richardson. That is the man that said his name was *Johnson*.

L. C. J. Look you now Mr. *Rouse* this is your time to speak for your self. - What have you to say to this that is charged upon you? you hear the first Witness does say, That you would have engaged him in a design of raising of men, and you told him you designed to surprize the Tower, and to that purpose he surveyed it with you, and you told him what your design was you met Mr. *Goodenough* about, it was to raise men. *Goodenough* was for Killing the King, you it seems at first was but for securing the King, and making him do what you pleased; but afterwards it was come to an higher matter, and then you had found out a way to engage some Captains to seize the Tower, and others were to seize *White-Hall*, both were to be done at once. What say you to this? (here are three Witnesses that testify very strongly against you) and the device you had to get men to *Black-Hearth* to secure the Tower.

Rouse. My Lord, I stand here for my Life; it never entred into my heart, nor came out of my mouth, but he came to me several times about it, and I opposed it. At last he dogg'd me so often, that he gave me occasion to ask him the meaning of it. The first place I saw him in was the *Kings-Head* (as he saith truly) in *Swinhins Alley*. There were several persons (as they met there every day upon their private occasions) that is true. He asked me a strange question, (that was the first time I heard of it) whether I was willing to oppose a Foreign Invasion that was like to be made speedily? and whether I would engage in the Defence of it? And this he did Two or Three times afterwards. To which I rep'yed, Sir, I and every honest man are bound (as we are Subjects, and have taken the Oaths of *Supremacy* and *Allegiance*) to engage in such a thing you put me upon, that was to engage against a foreign Invasion. The next time, he asked me how far I would assist if such a thing should fall out as a foreign Invasion? I wondered to hear it so often repeated; I answered, I never had but one Sword for several years, though I have had occasion for many in other Countries, but I make no question but by the assistance of my friends, to raise an Hundred Arms, that was my very expression. But withal I demanded what he meant by Invasion, and that I insisted upon several times; for, says I, I know of none, and I hope there is none like to be. I took an account of this in Characters, and have acquainted his Majesty and the Council with it. He replied to me, says he, I wonder you are a stranger to such a thing, 'Tis true says he, that is the word goes up and down, but says he there is another kind of Invasion meant by some men. I asked him what other Invasion do you mean? he answered presently, don't you know? are you a stranger in *England*? In *Israel*? says he there is an Invasion upon our rights and liberties and all we have: Whereupon I was a little startled. This was at the *Kings-Head Tavern*. Another time I desired him to explain his meaning, being a stranger to it, when I expressed my readiness to serve the King upon such an occasion in those words; they that know me, know that I am not in the capacity of raising an Hundred Arms, but I intended it as God knows in opposition to a foreign Invasion. But I thank God I took Characters day by day, and with a resolution day by day to discover it, but he has got the start of me, for fear I would swear against him. He insisted still upon it that our Rights and liberties were invaded, and that was the Invasion all along intended, and that was the way to hook in persons only upon that pretence of a Foreign Invasion. I asked him in what manner he meant Invasion? says he, what with their Doctrines on one hand, and oppression on the other, they lye so heavy that we can't bear it no longer. Says I, what do you mean by this? what course do you think of? what can you propound to your self to extricate your self out of these troubles you so much complain of? To which he answered, you are a stranger to what is a foot and hath been a foot a great while. Do you not know the persons that are engaged in the design? (I was a little inquisitive to know what was meant by the persons.) No (says I) positively, I know not what you mean, I am a perfect stranger to these persons and this design, and I wished him and all others (as they were men and Christians) that they would take care of opposing the Government they lived under, that was my very words. Says he, that we have considered very well, and how to secure the two things, and says he you shall see we will do it dexterously, without shedding a drop of blood, nay, says he, not the blood of the Duke of *York*, though he be the veriest dog in *England*. I desired him to explain himself, he answered, The mischief of it is we can't agree among our selves, for it was *Us* and *We* at every word; so I concluded he was of the Cabal and Clubb that met together on this design (that hath come before your Lordship;) and I am pretty confident there was such a hellish design, though I thank God I had no hand in it. Say I, who are the Persons? Pray declare the bottom of this story

story you come to me about one day after another. With much ado, he told me Mr. *Goodenough* was one. After this discourse I never saw Mr. *Goodenough* but twice, once was at the *King's-head* Tavern, where I believe was Twenty; the second time was a day or two after I saw the Proclamation and his Name in it. So much I speak of Mr. *Goodenough*. I asked him the Names of the other persons that were engaged in this Design, and (says he) I must conceal them, for I am under an obligation; but the first time I saw the Proclamation against Col. *Rumsey*, and the others, says he, I was deadly afraid I was in the Proclamation; but (says he) all these persons are concerned and several others. Thereupon he told me, that when they met they came to this Resolution, of seizing the Tower, the Aldermen, and taking of *London*. Says I, pray what money have you to carry on this? Money! oh, says he, we don't want money; says he, Mr. *Goodenough* hath assured me there is 40000*l*.

L. C. J. Look you, you invert all his discourse: He hath sworn it against you. Have you any evidence in the world? You are not in a capacity to swear against him.

Rouse. My Lord, he hath turned it upon me, he spake to me always in private.

L. C. J. Look you, You have fixed but upon one person, here was *Mate Lee* that gives a very shrewd Evidence against you; did he come and teach you? did he use these words?

Rouse. My Lord, I have nothing to say against *Mate Lee*, I hope he is an honest Man. But I having a Design to discover this whole thing, and having so much out of *Leigh* the Dyer —

L. C. J. What did you use these words to him for then?

Rouse. To satisfy the Gentlemen that put me upon it, that I might come to the bottom of the Design.

Mr. Just. *With*. You say you know a great deal more: How came it to pass you never told the King one word of this 'till after you was taken?

Rouse. I have told it since I was taken.

Mr. Sol. *Gen*. Pray when you had got to the bottom of all this (as you call it) why did you deny your Name?

Rouse. I did not deny my Name.

Sir G. *J*. He hath as many Names as he has Designs, and they are abundance.

Rouse. I did not know they were Officers: I did not think there was any obligation upon me to tell every Man my Name.

L. C. J. You hear what Evidence is given against you concerning your Discourse in *Egby One*, which though it be not the thing for which you are directly called in question; yet if you could clear your self of it, it would import you much, for that does show your spirit, and that you have had a long while a design against the King's Life, if that be true; therefore it would be very fitting that you purged your self of it, and that you could some way or other give an Answer to what you said, *That the King had forfeited his Crown, and had no more right to it than one of those sorry persons you spoke to*: And to say the Parliament might take away the King's Authority. These are strange treasonable Expressions.

Rouse. My Lord, Though this thing be revived, which was out of doors two years since, and I suppose it is well known to your Lordship, who was then upon the Bench. As I was told, there was a word in the Indictment called *Colloquium*: He was asked what Discourse passed before? But if Mr. *Corbin* would remember himself, I do confess I did say these words; but the words that follow'd, before.

Mr. Just. *With*. What do you mean, the Cart before the Horse?

Rouse. Mr. *Wyal* was urging of several Discourses, the Popish Grandeur in deposing Kings, and I gave this Answer in these words: Sir, (says I) *If it were in the power of any Pope to depose the King, then he might as well take away the Crown off the King's Head; but he hath no such Power; if he had that Power, says I, then the Crown of England is yours as much as his.*

Mr. Sol. *Gen*. What was the *Colloquium*, when you said the Parliament might take it away?

Rouse. I never said that.

L. C. J. I have heard a great deal of your discourse, if you think you can make any of it good by Witnesses to your advantage, call them.

Rouse. My Lord, I have not had time to collect my Witnesses. How can it be supposed I should call Witnesses: I don't know whether they are here. Here are Witnesses called to prove a Matter, whereof upon a Tryal two years past I was acquitted.

Mr. Just. *With*. Pray do not go away with that, here are two Witnesses since.

L. C. J. You were told, that was not the thing laid to your charge now, that does only

The Tryal of JOHN ROUSE.

only shew the temper of your Spirit, and how your Inclinations hath been all along. Look you, this you are now charged with is a design to *Seize and kill the King*, and to that purpose to have entred into a Conspiracy with *Goodenough* and others, for the raising of men, and the making of a *Rebellion and Insurrection* here in the Kingdome; whereby you might have seized not only the *King* but his *Fort* here the *Tower*, and made your selves Masters of his *Ships*, and so entred into a perfect War with him in his own Kingdome, to the destruction of himself and the Government. You hear what the Witnesses say against you.

Rouse. I do declare in the presence of God Almighty, before whom I must stand, if never entred into my heart.

Mr. Jones. If that would do, we should have none hanged.

Rouse. I appeal to your Lordship, and this honourable Court, whether 'tis likely for me, who am such a silly person to ingage in such a Devilish design, especially being concerne with no person in the world about it; for I declare, if I was upon ten Thousand Oaths, I never had any discourse with any person in the world about it. In the next place, I was never in any meeting, though I have heard of several darkly that they met in *London*, and in several Clubs, but I could never find out the places. I desire to ask him, whether he knows with whom I did concern my self.

L.C.J. Look you, did you never meet him with any company concerning any of these Treasonable designs that you have spoken of.

Mr. Leigh. I will give your Lordship and the Jury an account. *Mr. Rouse* acquainted me he could make Ten Sea-Captains, I acquainted *Mr. Goodenough* with it. He told me he would have a Golden-Ball, and told me the charge. We went to the *Angel and Crown Tavern* from thence he came to meet *Mr. Goodenough* to tell him what he had said to these Captains. The next day he met *Mr. Goodenough*; and *Mr. Goodenough*, *Mr. Rouse*, *Mr. Pachin*, and I, went from *Joseph's Coffee house* in *Exchange Alley*, and he discoursed about getting of these Captains.

Rouse Who was present?

Mr. Leigh. We never discoursed the matter jointly, but singly with one man. *Mr. Rouse* and *Mr. Goodenough* went into a Room apart above staires, and discoursed this matter (as I believe) half an hour.

Rouse. How do you know what discourse I had with *Mr. Goodenough* when you was not present?

Mr. Leigh. *Mr. Goodenough* thanked me for bringing him acquainted with you.

L.C.J. How do you know what discourse they had?

Mr. Leigh. I know only what *Mr. Rouse* told me, *Mr. Rouse* told me that he would ingage Ten Sea-Captains, that a Ball should be played, and every man take his dividend.

L.C.J. Did he tell you he had discoursed this with *Mr. Goodenough*?

Rouse. Did I tell you so?

Mr. Leigh. Yes, Sir.

L.C.J. You speak of several in company, one *Pachin* and others.

Mr. Leigh. We went from the *Kings-Head Tavern*, for there was Company we did not like, though we discoursed there but of *Hay-making*, and getting men to help the Country people.

L.C.J. What did you mean by that? *Mr. Leigh*. That was to get men for this business.

L.C.J. What did he say the intention was of raising these men?

Mr. Leigh. *Mr. Rouse* hath frequently and often acquainted me, that the King had taken an Oath in *France* and *Spain* to bring in *Popery* and *Arbitrary power* in so many years, and that he had not done it made the *Popish Party* angry, but that he would do it.

L.C.J. Well, what design was there in raising of men and seizing the Tower.

Mr. Leigh. He told me all things must be done together. The King and the Duke must be seized, for that was the principal work.

Rouse. It never entred into my heart. Be pleased to ask him if he was not Arrested by one *Keeling*, and what was the account of it.

Mr. Leigh. No.

Rouse. I mean sworn against.

Mr. Leigh. I will give your Lordship an account of it. *Mr. Goodenough*, *Mr. Rouse*, *Mr. Pachin*, and I, had been at the *Kings-Head Tavern*, a man came and told me; a man had been at my house, and that one swore against me, and it would be dangerous to go home. A while after comes one *Armiger* and he told me *Mr. Bateman* was gone one way and he, another to seek for me, and desired me to have a care of my self. With that *Mr. Rouse*, *Mr. Goodenough*, and *Mr. Pachin* came out to me. *Mr. Rouse* directed me to go to the *Sun Tavern* at *Moorgate*, and I went; *Mr. Rouse*, *Mr. Goodenough*, and *Mr. Pachin* came to me. I told them I would meet my Wife, but they would not let me go on by any means, but sent one *Mr. Thomas* a Coffee-man for my Wife.

She

She came and told me Mr. Goodenough had Sworn against several People, or he was Sworn against, I went to Mr. Rouses house where Mr. Goodenough came to me, Mr. Rouse would have had Mr. Goodenough staid there all night, Mr. Goodenough sent for his Wife to know if his Brother had Sworn, she acquainted him he had not Sworn, Mr. Rouse invited him to lie with me. He shewed me behind the Bed a Window to go out into another Mans room to make my escape, if any Man should come to search the house. I lay there on Saturday, Mr. Goodenough and Mr. Nelbrop came to me, Mr. Goodenough told me he had laid at Mr. Nelbrops all night, but he had seen his Brother and he had not Sworn against me, I heard that Mr. Keeling had Sworn against me, and did say in discourse if I did light of Keeling I would kill him.

Rouse. I desire to ask him another Question, When he was told he was Sworn against, what did he say?

L. C. J. He tells you before hand that he said he would kill Keeling if he could meet him.

Rouse. He says Mr. Goodenough and Mr. Nelbrop came to my house, ask him if I was in the House or saw Mr. Goodenough.

Mr. Lee. I am not positive whether he saw them together, but that he saw Mr. Goodenough there the Friday night for he invited him to lie with me.

L. C. J. Pray what was your reason in putting Mate Lee upon the inquiring out Men to make Masters of Ships.

Rouse. To satisfy the Gentleman because he told me there was such a design in hand to get to the bottom of that design that so his Majesty might come to no damage. Pray My Lord, How could I acquaint the King or any Justice of Peace what he meant by it unless I understood it.

L. C. J. Have you any thing more to ask? Or would you have any Witnesses called?

Rouse. My Lord, 'tis my unhappiness I have no Witnesses.

Sir Geo. Jeff. He hath confessed the Treason enough.

L. C. J. Look you Gentlemen of the Jury. You hear that this person at the Bar is indicted for High Treason in conspiring the Kings death, and declaring this by overt Acts, that is endeavouring to raise Men here for to Seize the Tower and to make an Insurrection here, and a Rebellion within the Kingdom: You hear two positive Witnesses of what they have heard from him; He did endeavour says Lee to bring him into it, and he told him the whole design, he did declare to him the manner how they intended to Seize the King and the Duke of York; Mr. Goodenough was one of the persons that confederated with him, one of them, but several others they had. They had covert Terms to disguise this, by getting the Country People in their Harvest. He told them of a design he had to get the Seamen a Thousand of them together to Seize the Tower and White-Hall both at a time. And you hear that Mate Lee had the same discourse in substance with him of endeavouring to Seize the Tower and get Arms, for to Seize the Kings Ships, to raise a Thousand persons for the effecting of this; All these things you have heard proved against him, he gives no Answer to any of them, but only tells you that in truth he did not say these things to them. but they, that is the first Lee said these things to him. He hath no evidence at all of it. You hear likewise (which does agree with this case) the Testimony by the other person concerning his discourse in 81. How he said the King had forfeited his Crown and had no right to it, but the Parliament gave him his Authority and might take it away. All these discourses they favour of a very wicked Spirit as can be in the whole World. I must leave it to you whether you believe him Guilty.

The Jury presently gave their Verdict that he was Guilty.

William Blague having been Arraigned on Thursday, July 12th. pleaded Not Guilty and put himself upon his Countrey, was brought to the Bar again Friday, July 13th. he made no Challenges, and the former Jury was Sworn.

The JURY.

<i>Robert Beddingfield.</i> <i>John Pelling.</i> <i>William Winbury.</i> <i>Theophilus Man.</i> <i>John Short, the Elder.</i> <i>Thomas Nicholas.</i>	{ { { { { {	<i>Richard Hoare.</i> <i>Thomas Barnes.</i> <i>Henry Robins.</i> <i>Henry Kemp.</i> <i>Edward Radish.</i> <i>Edward Kemp.</i>
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Clerk. **G**entlemen of the Jury, look upon the Prisoner, and hearken to his Charge. He stands Indicted by the Name of *William Blague*, late of *London*, Gent. that he together with *John Rouse*, &c.

Mr. North. Gentlemen, you that are sworn; the Prisoner at the Bar, is charged with compassing the Death of the King, and conspiring to raise War and Rebellion, to destroy the Government and take possession of it, that he did conspire with one *Rouse*, and several others not yet known to bring these things to pass, and being join'd together to seize the *Tower*, and to provide several Arms: To this he hath pleaded not guilty, &c.

Mr. S. Jeffreys. My Lord, and you Gentlemen of the Jury, we shall not need to trouble you much with the Prisoner at the Bar, for this Prisoner with him that went before were to undertake that part of this horrid Conspiracy relating to the seizing the *Tower*, because the same Witnesses that were against the former, are against the Prisoner at the Bar. We shall not need to trouble you with the history, we will call our Witnesses to prove it.—Do you hear, *Lee*, you must tell my Lord and the Jury what the Prisoner at the Bar was concerned in.

L. C. J. What do you know of any Treasonable practices of his?

Mr. Lee. I will acquaint your Lordship and the Gentlemen of the Jury, that *Capt. Blague*, and *Mr. Rouse* were frequently at the Tavern. I presume many times they came in about Business, and sometimes there was Discourses to carry on this Conspiracy. *Mr. Rouse* told me he had acquainted *Capt. Blague* with it, about getting Ten Sea Captains; *Capt. Blague* told him they had better engage one or two Ships to shoot Morter-pieces into the *Tower*, which would presently destroy it, and discoursing with *Capt. Blague* about the affair, he told me he would be ready, in a Fortnight or Three Weeks.

Capt. Blague. My Lord, will you please to ask what time that was.

L. C. J. You shall have any Question asked by and by.

Capt. Blague. Very well.

Mr. Lee. *Capt. Blague* told me he would be ready in a Fortnight or something more, and he had an intention to lay in about Fourteen Guns in his own Ship that he had bought, he would have Twenty four in it, and lay it on *Southwarke* side against the *Tower*. He would venture his Ship, but they must see they were provided with Money for the Seamen. I acquainted *Mr. Goodenough* with this, and *Mr. Goodenough* desired to speak with *Capt. Blague*, I told *Capt. Blague* of it, and we took Coach at the *Stocks-Market*, and went to the *Kings-head* in *Chancery-Lane*, where we met with *Mr. Richard Goodenough*, and *Mr. Francis Goodenough*, *Capt. Blague* asked what Money they had provided, they said about 40000 l. says *Capt. Blague*, the Seamen will swallow that up immediately.

L. C. J. What did *Capt. Blague* say?

Mr. Lee. *Mr. Goodenough* and *Capt. Blague* discours'd about the Matter at the *Kings-head* Tavern at *Chancery-Lane* end, and the discourse about the Matter was, how to seize the *Tower*, he

he then told them again, the only way was to do it with Morter-pieces, that he would venture his own Ship and provide Two hundred men.

L. C. J. What did he say about Money?

Mr. Lee. He asked what Money was provided, he said there was about 40000 l. then, he said that would be easily swallowed, Mr. Goodenough said that there would be more provided at any time. Cap. Blague and Mr. Goodenough, both of them, drank a Glass or two of Wine together, and so at that time we parted. I met with Capt. Blague again, and bid me for God's sake, don't discourse before my Mate such a one, but my Mate Lee is a very honest fellow: Said he, I will undertake once in Twenty times to dismount them Six Guns that face towards Surrey side, which I understood to be about Traitor's-Bridge, he would undertake to dismount them. What discourse Capt. Blague, and Mr. Goodenough had a part I can't tell, but Mr. Goodenough told me, he would get some other Captains to engage in that affair. That Business was left to him and I, and I was desired to be frequently with Capt. Blague for the managing this affair of the Tower, and saies he, I have had a Commission, though not in England, by Land as well as by Sea.

L. C. J. Will you ask him any thing, Sir? Now he shall be asked any thing that you will propose. First, you do propose to him about what time this meeting was. What say you to that?

Mr. Lee. If it please your Lordship, I believe it was toward the latter end of May or the beginning of June.

Capt. Blague. If you please, my Lord, I will give you a Journal or Narrative of all my proceedings.

L. C. J. Will you ask him any more than that?

Cap. Blague. No, my Lord.

Mr. S. Jeff. We will call Mate Lee. This Mate Lee was the Man that might not be trusted.— Mate Lee, tell my Lord and the Gentlemen of the Jury, what discourse you have had with the Prisoner at the Bar, Capt. Blague, about seizing the Tower.

Mate Lee. I shall Sir. The first discourse that ever I understood, was one time he and I was riding in a Coach, saies Capt. Blague, one of these daies we shall have a Ball to toss. I did not know the meaning of this Ball, till afterwards Mr. Rouse and Mr. Lee and I came together, and he told me of tossing a Ball upon Black-beatb. Then I began to understand it. And after this, I can't tell whether it was before that, Capt. Blague, and I walking about the Tower, and discoursing of this, my way was to Scale the Tower, and take it that way, saies Capt. Blague, the best way is to shoot Morter-pieces on Southwarke side; this was all the discourse.

Mr. S. Jeff. Can you say any thing about the Ship?

Mate Lee. Nothing about the Ship, but about Morter-pieces on Southwarke side.

Mr. S. Jeff. What time was that?

Mate Lee. I cannot be positive, about Six Weeks ago or less.

Mr. S. Jeff. The first time was in the Coach?

Mate Lee. That was about the Ball, I did not understand it, only tossing up a Ball, I did not understand the meaning of it, till afterwards Mr. Rouse and Mr. Lee and I came together.

L. C. J. How came you to discourse with him concerning the best way of taking the Tower?

Mate Lee, Mr. Rouse, and Mr. Lee and I, and Capt. Blague had been together. We discoursed about taking the Tower. And we had this discourse among our selves, which was the best way to take the Tower, my approbation was Scaling Ladders, and hand Granadoes, that was the best way. Cap. Blague's way was with Morter-pieces on Southwarke side.

L. C. J. To what intent was this discourse, had you had any former discourse with any Persons?

Mate Lee. Not at all, if it please your Lordship. The first discourse I had was with Mr. Rouse and Mr. Lee.

L. C. J. And was that about taking the Tower?

Mate Lee. To surprize the Tower, and Mr. Lee and Mr. Rouse and I went down to view the Tower.

L. C. J. Then afterwards Capt. Blague came in about the way to take it?

Mate Lee. This discourse with Capt. Blague about the Tower was between him and I. I don't remember it in any other Company.

L. C. J. What was your Business with Capt. Blague.

Mate Lee. My Business was with Capt. Blague to be his Mate, and I was conversant with him at the Exchange, the Coffee-house and the Kings-head Tavern. And we had discourse about these things.

L. C. J.

L. C. J. Come Capt. Blague, would you have him asked any Question?

Capt. Blague. My Lord, otherwise I had gone to Sea soon after I came home, but so it was, that I had an occasion for *Pensilvania*, and *New-York*, and coming one day to the *Exchange*, I met Mr. Rouse, whom I had not seen in 16 or 17 years before, for Mr. Rouse made a Voyage to *Virginia* with me about 20 years ago. Now, My Lord, meeting with Mr. Rouse, I had an occasion then to take up Two or Three Hundred Pounds, and knowing Mr. Rouse was a Broker, I did imploy him to procure it me, but he did not; however daily I came to him to dispatch that affair, and Mr. Rouse being a Man for a Tavern, I went to the *Kings-head* Tavern, and the *Sun* Tavern, if he was not at one place I found him at another, in order to perfect this business. So, My Lord, when I came into his Company, several People use to be with him that I never saw in my life, and Mr. Rouse would say sit down a little and I will go with you, presently, so I would sit down and drink a Glas of Wine, and go to the places where the affair was to be managed, after I had done thus several days and to no purpose, I did it my self. Now, My Lord, Mr. Rouse in that time brought me acquainted with *Goodenough*, because *Goodenough* was in his Company and Mr. Lee, not that I ever saw Mr. *Goodenough* in my life before, and not as Mr. Lee says that I ever was with him at the *Dragon*.

Mr. Lee. The *Kings-head* Tavern in *Chancery-Lane*.

Capt. Blague. I was just coming home when Mr. Lee was going to meet with Mr. *Goodenough*, and I went in there and took a Glas of Wine, and bid them farwel, and so went home. When I was with Mr. Rouse, I was asking what People they were that were in his Company, he said very honest Men, drank a Glas of Wine and went away, and still I found them together. I was saying to this Mr. Lee here, if you will go along with me, you shall give me as much for your Passage as any of the rest of the Passengers do. Now at this time my Ship was not in my possession, this very day three Weeks I had it in my possession, and now at this very day she is in the Carpenters hands, who is here now I suppose.

L. C. J. Well go on.

Capt. Blague. Now Sir, whereas Mr. Lee reports that I discours'd with Mr. *Goodenough* concerning any publick affairs, or any thing tending to the Disturbance of the Peace, then am I not a Christian. Besides Sir, I did not speak Twenty words, or Ten words at the time but your Servant Sir, or here's to You in a Glas of Wine; and this I do speak in the presence of God Almighty. And when I came into a Room, I never staid longer than Mr. Rouse for my business was with him, and so went about my own affairs. As for Mr. *Goodenough*, I believe I was three times in his Company before I could remember his name, I would ask Rouse several times what do you call that Man. But in reference to the *Tower* that Mr. Lee speaks of, that must be touch'd at; I do remember very well, I shall by no means palliate it if I were presently to die, coming up from the Ship we were coming by water, indeed I should have had possession of the Ship a Fortnight before, if they had done me Justice, I had Two or Three Hundred Pounds for them before, but coming from the Ship, we were coming up by water by the *Tower*, I don't know how it was, I spake it to the Waterman, this place is not well Fortified, and if any occasion should happen this place lies in more peril and jeopardy than any place of the *Tower*, and so it does. It is an easie matter for any to give their Sentiments whether they be accepted of or no. This is the very thing I said, and then they were talking of a *French* War and the like. Then I said you silly fools, if they should take it, it is but going over a t'other side and throwing half a dozen Bombo's to them and set them out again. But however, Mate Lee, if he remember, I told him the same thing at that same time, and I told Mr. Lee it was pitty a thousand times, that place was not better Fortified. But as to what Mr. Lee says, to have Two hundred men in a poor Pink, I have refused several in that very Ship, because I could not stow an Hundred Men, Women, and Children, and that I should Press Two hundred Men in that Ship, that will not hold. And besides it is a Pink, let any one look upon her and see, whether that Ship be fit or no to take in Two hundred Men. But whereas they say I had Arms and such things, I bought the Ship and Arms together, I had
4 Blunderbuffs, 2 Javelins and Half-Pikes, that is all.

L. C. J. You forget to Answer several things, you had discours'd about a Bank of Money.

Capt. Blague. A Bank of Money, My Lord, I never discours'd of. And as to the Ball that my Mate speaks of, My Lord, I know no more what it means to this very day than one that never saw a Ball.

L. C. J. Look you, Sir, you were with Mr. Lee, this Mr. Lee hath Sworn, he says you told him that you would undertake to get Two hundred Men, and you had bought
Fourteen

Fourteen Pieces of Ordnance already, and that you would within a Fortnight's time, do you remember, bring your Ship to *Soutbward*. and be ready to beat down that part of the Tower.

Capt. *Blague*. My Lord, I have told you already the Ship was not mine to bring till this Day Three Weeks.

L. C. J. That was within Compass, for they tell you this discourse was about a Month ago.

Capt. *Blague*. It was in *May*, my Lord, they talk of.

L. C. J. No, they speak of about a Month ago, you were to have them in a Fortnights time.—What saies the first *Lee*, what time does he speak of?

Mr. *Lee*. If it please your Lordship, he said his Ship would be ready, in a Fortnights time or thereabouts.

L. C. J. How long was that ago?

Mr. *Lee*. About a Month or Five Weeks.

L. C. J. To what purpose did you meet Mr. *Goodenough* so often to discourse about this matter of the Tower?

Capt. *Blague*. My Lord, I never met with him at all but when I came to Mr. *Rouse* about this business of the Two hundred Pound.

L. C. J. Mr. *Lee*, What say you concerning his inquiry for Money?

Mr. *Lee*. If it please your Lordship, Mr. *Goodenough* and the Captain met at the *Kings-head Tavern*, they met several times apart out of Company, and discourse of the business apart; Mr. *Goodenough* asked me for the Captain many times, I told him what the Captain said to me. Mr. *Goodenough* took the Captain out, and discourse him about this affair. Mr. *Goodenough* hath told me several times the Captain would be very serviceable. The Captain asked what Money there was; I told him about 40000 *l*. and he said that would be quickly gone. I inquired of Mr. *Goodenough* again, and Mr. *Goodenough* told me there was more Money in *Holland*.

L. C. J. What Money was he to have?

Mr. *Lee*. Two hundred men.—The Captain says I named him before the King and Council, to be at a Meeting at the *Green-Dragon Tavern*. It is true I did acquaint the King and Council, that Mr. *Rouse* had Business at the *Green-Dragon Tavern*. But this was at the time of my absconding, I could not tell where to meet him again.

L. C. J. What Guns did he say he had provided.

Mr. *Lee*. If it please your Lordship he said he had Fourteen Guns in the Ship, and would make them up Twenty four: He would undertake in Twenty shot to dismount them Guns.

L. C. J. Where was this discourse you had with him about this Two hundred Pound.

Mr. *Lee*. If it please your Lordship, it was at several times, one was with Mr. *Goodenough* at the *Kings-head* at the corner of *Chancery-Lane*.

L. C. J. Look you Sir, by the Oath you have taken did he undertake to raise men, and to assist with his Ship in taking the Tower?

Mr. *Lee*. If it please your Lordship, he told me he would so do it. He told me he would have Twenty four Guns.

Jury. Did the Captain tell you so?

Mr. *Lee*. Captain *Blague* that is here.

Capt. *Blague*. My Lord, in reference to the Two hundred men, this is the thing that I would answer, I could not stow a Hundred Men, Women and Children.

L. C. J. Two hundred men he saies for this Service.

Capt. *Blague*. Yes, my Lord, I mean so. Who can you have to say so besides your self?

Mr. *Lee*. If it please your Lordship, this discourse was only with Mr. *Rouse*, Mr. *Goodenough*, Capt. *Blague* and I.

Capt. *Blague*. My Lord, Mr. *Lee* said before the King and Council, that he was never along with me but once, and of what I said then he could tell only he was there when I went to look Mr. *Rouse*. How can these two expressions go together?

Mr. *Lee*. My Lord, as to that before the King and Council, I did say I was not apart with Captain *Blague*, and Mr. *Goodenough* at the *Kings-head Tavern*, but Captain *Blague*

and Mr. Goodenough were there several times, and they were apart by themselves, and that I had discourse with Captain Blague and Mr. Goodenough and came with them once to the Kings-head Tavern.

L. C. J. What did Captain Blague tell you of what discourse he had with Mr. Goodenough?

Mr. Lee. Captain Blague did tell me that we must have a great care, or else we should be all ruined, and that his Ship should be ready, and alwaies encouraged me. And says he, when I have done the business, I have been a Captain ashore in another Country, I have been in Commission in another Country ashore, and can tell how to mannage Men ashore as well as aboard. Another thing was, after all this some time, when I understood I was Sworn against, I was indeed, the Captain says right, to have gone with him a Passenger, and was with him several times, I gave him a report how the Tower might be taken by Ladders and Granadoes, and he told me that Nelthrop's Brother came to see him, and did inform me that neither Mr. Goodenough nor his Brother was taken, and that the Duke of Monmouth was in the Country and quickly would come.

L. C. J. Who told you this?

Mr. Lee. Capt. Blague.

Mr. S. Jefferies. This is a pretty matter to smirk at, Captain.

Capt. Blague. I will assure you Sir, there is no truth in it.

Mr. S. Jefferies. Would you smile the Witneses out of their Oaths.

L. C. J. Look you, Mate Lee, what say you to this? in your judgment and your thoughts was the discourse concerning taking the Tower in a jesting way?

Mate Lee. No, an't shall please your Lordship, I was in earnest in discoursing of it, my way was, as I told your Lordship before, scaling Ladders and hand Granadoes.

L. C. J. Had you any talk before of Surprizing the Tower?

Mate Lee. No, My Lord, by no body but Mr. Rouse and Lee.

L. C. J. What had they spoken to you concerning Surprizing the Tower.

Mate Lee. Mr. Rouse spoke to me of getting some Seamen, that might be fit to make Masters of Ships, and I asked him what he would do with those Seamen to make Commanders of Ships, he said, to put them aboard the Kings men of War, and make Guard Ships of them; I said, what can you do with them to make Guard Ships, when there is neither Powder, Shot, nor Ammunition, but said I, if you can take the Tower you may do well enough: So that our discourse was about taking the Tower.

L. C. J. Was Capt. Blague with you then?

Mate Lee. What discourse we had about taking the Tower was between our selves.

L. C. J. How came you to discourse concerning this?

Mate Lee. This was our common discourse, I suppose the instigation might be by Mr. Rouse. I was acquainted with Mr. Rouse by going with Capt. Blague; this was my first discourse with Mr. Rouse and Mr. Lee together.

L. C. J. Who was with you when you discours'd it first?

Mate Lee. There was only Mr. Rouse and Mr. Lee, I can be positive that Capt. Blague was not, but this Capt. Blague did say when I gave my way of taking the Tower by scaling Ladders, and hand Granadoes, no, says Capt. Blague it is a better way to have Mortar-Pieces over the Water, and shoot into the Tower.

Mr. S. Jefferies. Hark you friend, did Lee or Rouse tell you that Blague was made privy to it?

Mate Lee. I understood nothing of it but what we discours'd together, for I was acquainted with none of the Cabal but Mr. Rouse and Mr. Lee.

L. C. J. What did you discourse about?

Mate Lee. About taking the Tower. I won't mince it, I am upon my Oath.

L. C. J. Therefore we would have the truth out of you.

Mate Lee. I did gather from Mr. Rouse and Mr. Lee that the intention was to take the Tower.

L. C. J. Give some account how you and Blague came to discourse of such a thing as this is, and in order to what design.

Mate Lee. The design was to take the Tower.

L. C. J. Did Blague and you discourse it to this purpose?

Mate Lee. Capt. Blague and I discours'd it to that purpose of taking the Tower.

Mr. Sol. Gen. Did you discourse of it as a thing that might be done, or that was intended to be done?

Mate

Mate Lee. We did discourse of it as a thing that might be done, or was intended to be done.

L. C. J. Now Capt. *Blague*, if you have any thing to ask him you may.

Capt. Blague. Ask him whether there were any projections or provisions made for the taking it, and whether or no there was any resolution taken, that the *Tower* should be taken.

Mate Lee. An't shall please your Lordship, the King's Majesty asked me when I said what Capt. *Blague* said about taking the *Tower* with *Mortar-Pieces*, if it please your Majesty? said I, I don't know whether there was any such thing discours'd, that I did not hear.

L. C. J. Well, was there any thing provided or designed in order to it?

Mate Lee. An't please your Lordship, there was nothing of *Men* or *Guns* provided, that I did know or hear of.

Mr. S. Jefferies. How many times did you talk with Capt. *Blague* about this?

Mate Lee. Several times.

L. C. J. Had you any order from any other persons for to discourse Capt. *Blague* in order to this?

Mate Lee. No, An't shall please your Lordship, to the best of my knowledge I had no order, for they were commonly together, Capt. *Blague*, *Mr. Rouse*, and *Mr. Lee*, and I came to them when I had business with Capt. *Blague*.

L. C. J. Did you ever discourse this thing with Capt. *Blague* before them?

Mate Lee. I cannot be positive in that.

Mr. Sol. Gen. Did those other persons that you said you discours'd with engage you?

Mate Lee. *Mr. Rouse* and *Mr. Lee* and I went out, to view the *Tower* how it might be taken.

Mr. Sol. Gen. Did they engage you?

Mate Lee. Yes, they did engage me.

Jury. My Lord, we desire to have the Witness asked whether the Captain knew he went to view the *Tower*.

L. C. J. Had he any intimation you went to view the *Tower*?

Mate Lee. My Lord, I cant be positive in that: Some time after we met the Captain, and did tell the Captain we had view'd the *Tower*; but I don't remember what observations we made.

Mr. S. Jefferies. Nor what he said to you?

Mate Lee. No, nor what he said to me upon it.

L. C. J. Look you *Mr. Lee*, *Mate Lee*, the Captain told you of this Ball that was to be thrown upon *Blackbeath*, how long ago was it?

Mate Lee. An't please your Lordship, I cannot be positive, it was Five or Six weeks ago, I think it was the last time I rid along with him to the *Kingshead Tavern*. I went to *Chancery-Lane*, and you gave me Coach-hire for nothing, and then you spoke of tossing up the Ball.

L. C. J. What was it he said?

Mate Lee. This was all, I did not know his meaning, neither did he express his meaning, he was saying to the best of my remembrance, we shall see a Ball tost up, I don't remember he said upon *Blackbeath*; the confirmation of it was by *Mr. Rouse* and *Mr. Lee*, then I came to understand what the Ball did mean.

Sir James Butler. With his Lordships leave, did you speak first to the Captain about the *Tower*, or did he speak to you, was it your motion to him, or his to you?

Mate Lee. I don't know but it might be my motion to him.

Sir James Butler. Then My Lord give me leave to ask another. How were these *Mortar-Pieces* to be brought up, to be planted on *Southwark* side to play upon the Wall of the *Tower*.

Mr. S. Jefferies. That was t'other Man, Sir James.

L. C. J. Is there any thing more that you would have asked of any of these Witnesses, or have you any Witnesses of your own?

Capt. Blague. My Lord, the Witnesses that I have in reference to the number of *Men* are here. I desire, My Lord, you will be pleased to order them to come in, to know upon what account I Shipped them.

Jury. My Lord, Pray let us ask t'other *Lee* one Question.

L. C. J. The first Lee.

Jury. We desire to know whether he heard any thing of the Ball or Tossing it?

L. C. J. He hath told you a long story of it.

Mr. Lee. The story of *Blackbeath* I acquainted you with it about Mr. Rouse. There was a Golden Ball to be plaid upon *Blackbeath*, a Thousand Seamen to be at the playing of this Ball, Ten Sea Captains to manage these Thousand Seamen, and after the Play was over, every Captain to take his Division apart, and treat them with Punch, and after that was done, to tell them they had other work to do, and to have Long-boats and Arms ready, to go and seize the Tower.

Jury. Did Capt. Blague acquaint you with this?

Mr. Lee. Mr. Rouse told me Captain Blague was acquainted with it, I never discoursed with Captain Blague about it. Captain Blague told me the best way was to set a Ship a to'ther side, and shoot Mortar-pieces into the Tower.

L. C. J. What would you have Mr. Wright asked?

Capt. Blague. My Lord, please to ask him upon what account he was shipped.

L. C. J. Was you shipped upon the Captain's Ship, and upon what account?

Mr. Wright. An't shall please your Honour, I was shipped upon him almost Four Months and three Weeks ago.

L. C. J. Upon what account?

Mr. Wright. I was shipped upon him upon the account of New York, England and Holland.

L. C. J. Well what use do you make of this Evidence.

Capt. Blague. Only, my Lord, if you please to ask the rest, whether I have shipped any more men, or spoke with any more than these are.

Mr. Wright. An't like your Honour, I have waited upon the Captain ever since I have been shipped, I have waited upon him in London at the Coffee-house about Business: Since I have belonged to him I was in Pay although we had not a Ship in possession: Sometimes at the Mayors Court Office, Mr. Briggs, sometimes with Mr. Rouse, who had something to do for Captain Blague. I kept at the Coffee-house commonly every Day from Eight or Nine a Clock in the Morning, sufficient to know me in London. I have kept at the Coffee-house from Nine or Ten a Clock in the morning till Four or Five in the Afternoon, and so I have satisfied him about what People inquired after him.

Capt. Blague. Call Robert Chappel.

L. C. J. Capt. Blague what would you have him asked?

Capt. Blague. Carpenter, declare to my Lord how long you have been with me and upon what account I shipped you?

Chappel. Four Months and an half.

L. C. J. What besides?

Chappel. We were to go to New York. I have been shipped Four Months and an half to go to New York: We came to the Coffee-house in Birchin Lane.

L. C. J. Well.

Chappel. We have had the Ship a Month in our hands next Monday.

L. C. J. Is she fitted?

Chappel. No, she is not fitted.

L. C. J. Was she in a condition to have done any Service upon the Water?

Capt. Blague. Carpenter, do you hear what my Lord saies.

Chappel. The Ship is a small Vessel about a Hundred and fifty Tun, between that and an Hundred.

Capt. Blague. My Lord, ask you if she be in a Condition to do service.

L. C. J. Was she capable to do any service upon the Water?

Chappel. No service at all upon the Water she could do three Weeks ago.

Mr. S. Jeff. A Ship of One hundred and fifty, or Two hundred Tun, would hold a great many People, she was to lie still, that was the mischief.

Chappel. We haled her down to the Carpenter's Yard, she is now in a condition to work.

L. C. J. Have you any more men?

Capt. Blague. Dr. upon what account were you shipped?

Bellinger. For New-York, England, and Holland.

Capt. Blague.

Capt. Blage. When were you Shipped?

Bellinger. Seven Weeks ago.

L. C. J. When were you to begin your Voyage?

Bellinger. I belonged to the Captain before he had a Ship.

L. C. J. But when did you reckon to begin your Voyage?

Bellinger. That I cannot tell.

Capt. Blage. My Bill upon the Exchange doth specify it, Sir.

Jury. Pray my Lord, will you ask if he have any Guns aboard, and how many?

L. C. J. What say you? What Guns are there about the Ship.

Bellinger. 14, Sr. and 4 Wooden ones.

L. C. J. What are they?

Bellinger. 6 above Deck, 4 in the Hold.

Capt. Blage. They are Saker Guns.

L. C. J. Saker?

Capt. Blage. Yes Sr. Richard Clarke, What Voyage had we?

Clarke. New York.

L. C. J. Surely it doth appear that these men were Shipped a great while ago.

Capt. Blage. Some of them have had a dependance upon me a great while, one hath depended upon me I believe Seven Months.

L. C. J. Have you any thing more to say?

Capt. Blage. No, my Lord.

L. C. J. Look you, Gentlemen, you that are of this Jury, this Gentleman is indicted for conspiring the Death of the King, and doing some Acts in order to it, that is, endeavouring to surprize the Tower, and raising of men, and preparing of Shipping and Guns, and this on purpose to surprize the Tower. That there was an evil Design, a very wicked notorious Design of Siezing the Kings person, and killing the King, that is most certain, you have heard it by a great many witnesses, and it is a thing I think not to be doubted of by any. The question is, Whether this man be guilty of it, and hath undertaken any thing in relation to it. Look you, you ought to have in such cases of Treason, as you have been told, you ought to have two Witnesses against a person. There is two Witnesses produced, one of them does speak very shrewdly to the case, and you he had it from this person himself, that he had spoken with Goodenough about the matter, about surprizing the Tower, and that he told him it was an easie thing to surprize the Tower, and that he could do it, that he had a Ship ready, and he would undertake that 200 men should be ready, with Morter-Pieces from Southwark side to throw them and beat down the Tower, so that it might have presently been down. First, Mr. Lee doth say, that the Captain there at the Bar, that he was oftentimes with Mr. Goodenough, and Mr. Rouse, and others, who it is plain were in that Design, both Rouse and Goodenough was, and that he heard Goodenough say that the Captain had undertaken it, and he says that the Captain had Discourse with Goodenough about it. He says, the Captain asked him in order to this, what money could be raised, and he told him there was 40000*l.* and the Captain told him that was but a small matter, the Soldiers would eat up that; and Goodenough told him there was a greater Bank in Holland, that would be brought over. So that this Evidence goes a great way. But then, Gentlemen, you must consider whether you have another Evidence or not. There is a person that you call Matt, the Matt doth give a dark kind of an Evidence, he does say here that he and the Captain had discourse about the way of taking the Tower, and he believes it was in order to take the Tower, but he does say when he heard it no Body was present but himself, and he was of one opinion how the Tower might be taken, that is, by scaling Ladders and hand Granadoes, and that the Captain was of another opinion, whether it might not be better taken by Morter-Pieces thrown from Southwark side, but whether the Captain had any notice of this design of taking it, he cannot tell, or whether he had any acquaintance concerning it. So that his Evidence does seem to be somewhat dark. Whether this were sportive, or a trial of their skill, or whether it was a design to have Counsel and Advice one of another, which way to take it, I must leave it to you, whether it was done with an intent and design, for to find out the best way in order to the taking of it. But if it were only a Discourse at large between them, an endeavour to try their Judgments one with another, and speaking their minds one with another in that case, then this evidence doth not come home to make him guilty of the Plot of taking the Tower or taking away the Kings life. He tells you he did speak of a Ball to be thrown up, but whether he ever heard of the other design that Lee speaks of, the first Lee, Thomas Lee,

L. C. J. The first Lee.

Jury. We desire to know whether he heard anything of the Ball or Tossing it?

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Chappel. We were to go to *New York*. I have been shipped Four Months and an half to go to *New York*: We came to the Coffee-house in *Birchin-Lane*.

L. C. J. Well.

Chappel. We have had the Ship a Month in our hands next *Munday*.

L. C. J. Is she fitted?

Chappel. No, she is not fitted.

L. C. J. Was she in a condition to have done any Service upon the Water?

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Bellinger. 6 above Deck, 4 in the Hold.

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Capt. Blage. Yes Sr. ——— Richard Clarke, What Voyage had we?

Clarke. New York.

L. C. J. Surely it doth appear that these men were Shipped a great while ago.

Capt. Blage. Some of them have had a dependance upon me a great while, one hath depended upon me I believe Seven Months.

L. C. J. Have you any thing more to say?

Capt. Blage. No, my Lord.

L. C. J. Look you, Gentlemen, you that are of this Jury, this Gentleman is indicted for conspiring the Death of the King, and doing some Acts in order to it, that is, endeavouring to surprize the Tower, and raising of men, and preparing of Shipping and Guns, and this on purpose to surprize the Tower. That there was an evil Design, a very wicked notorious Design of Siezing the Kings person, and killing the King, that is most certain, you have heard it by a great many witnesses, and it is a thing I think not to be doubted of by any. The question is, Whether this man be guilty of it, and hath undertaken any thing in relation to it. Look you, you ought to have in such cases of high Treason, as you have been told, you ought to have two Witnesses against a person. Here is two Witnesses produced, one of them does speak very shrewdly to the case, and tells you he had it from this person himself, that he had spoken with Goodenough about this matter, about surprizing the Tower, and that he told him it was an easie thing to surprize the Tower, and that he could do it, that he had a Ship ready, and he would undertake that 200 men should be ready, with Morter-Pieces from Southwark side to throw them and beat down the Tower, so that it might have presently been down. First, Mr. Lee doth say, that the Captain there at the Bar, that he was oftentimes with Mr. Goodenough, and Mr. Ronse, and others, who it is plain were in that Design, both Ronse and Goodenough was, and that he heard Goodenough say that the Captain had undertaken it, and he says that the Captain had Discourse with Goodenough about it. He says, the Captain asked him in order to this, what money could be raised, and he told him there was 40000*l.* and the Captain told him that was but a small matter, the Seamen would eat up that; and Goodenough told him there was a greater Bank in Holland, that would be brought over. So that this Evidence goes a great way. But then, Gentlemen, you must consider whether you have another Evidence or not. There is a person that you call Mate, the Mate doth give a dark kind of an Evidence, he does say here that he and the Captain had discourse about the way of taking the Tower, and he believes it was in order to take the Tower, but he does say when he heard it no Body was present but himself, and he was of one opinion how the Tower might be taken, that is, by scaling Ladders and hand Granadoes, and that the Captain was of another opinion, whether it might not be better taken by Morter-Pieces thrown from Southwark side, but whether the Captain had any notice of this design of taking it, he cannot tell, or whether he had any acquaintance concerning it. So that his Evidence does seem to be somewhat dark. Whether this were sportive, or a trial of their skill, or whether it was a design to have Counsel and Advice one of another, which way to take it, I must leave it to you, whether it was done with an intent and design, for to find out the best way in order to the taking of it. But if it were only a Discourse at large between them, an endeavour to try their Judgments one with another, and speaking their minds one with another in that case, then this evidence doth not come home to make him guilty of the Plot of taking the Tower or taking away the Kings life. He tells you he did speak of a Ball to be thrown up, but whether he ever heard of the other design that Lee speaks of, the first Lee, Thomas Lee,

of throwing up a Ball by Seamen in order to the taking of the Tower, he knows not. *Lee* says, the first Witness, he does not know any thing whether this man at the Barr was ever acquainted with the Ball or not. If upon what you have heard you believe that there are two Witnesses to prove this Gentleman at the Barr Guilty of this Design, of Surprizing the Tower, and Killing the King, and taking the Tower in order to it in this manner; then you ought to find him Guilty: but if you have not two Witnesses that do testify the thing, then Gentlemen, under two Witnesses a man cannot be Guilty.

After which the Jury withdrawing to consider of their Verdict, in a short time returned, and brought him Not Guilty.

Saturday 14th. July, *My Lord Russel was brought to the Barr.*

Cl. of Cr. **VV** *Illiam Russel Esq;* hold up thy Hand (which he did) Thou hast been indicted for High Treason against our Sovereign Lord the King, and thereupon hast pleaded Not Guilty, and for thy Tryal hast put thy self upon the Country, which Country has found thee Guilty. What canst thou say for thy self why Judgment of Death should not pass upon thee according to the Law?

L. Russel. Mr. Recorder, I should be very glad to hear the Indictment read!

Mr. Att. Gen. You may read it.

Cl. of Cr.. Will you have it read in Latin or in English?

L. Russel. In English.

The Clerk read to the words of Conspiring the Death of the King.

L. Russel. Hold, I thought I had not been charged in the Indictment as it is, of Compelling and Conspiring the death of the King.

Mr. Att. Gen. Yes, my Lord.

L. Russel. But Mr. Recorder, If all that the Witnesses swore against me be true, I appeal to you and the Court, I appeal to you whether I am guilty within the Statute of 25 E. 3. they having sworn a Conspiracy to levy War; but no Intention of killing the King: And therefore I think truly Judgment ought not to pass upon me for Conspiring the death of the King, of which there was no proof by any one Witness.

Mr. Att. Gen. That is no Exception.

Mr. Recorder. My Lord, that was an Exception proper (and as I think you did make it) before the Verdict; whether the Evidence does amount to prove the Charge, that is proper to be observed to the Jury; for if the Evidence come short of the Indictment, they can't find it to be a true Charge: But when the Jury has found it, their Verdict does pass for truth. We are bound by the Verdict as well as your Lordship, we are to go by what the Jury have found, not their Evidence.

L. Russel. Without any proof?

Mr. Recorder. The Jury must be governed by their Evidence.

L. Russel. I think it very hard I must be Condemned upon a Point that there was not one thing of it sworn, therefore I think I may very Legally demand arrest of Judgment.

Mr. Recorder. I hope your Lordship will consider 'tis not the Court can give a Verdict, it must be the Jury. I believe there is no body in the Court does delight in giving such Judgments, especially against your Lordship. The Verdict is found, and the Kings Attorney General on behalf of the King does demand it.

Mr. Att. Gen. I do demand Judgment of the Court against the Prisoner.

Proclamation made for silence whilst Judgment was giving.

Mr. Recorder. My Lord Russel, your Lordship hath been indicted, and tried, and found Guilty of High-Treason, the greatest of Crimes, your Quality is great and your Crime is great. And I hope and expect that your behaviour and preparation in this Condition

Condition will be proportionable. My Lord, it is the Duty of the Witnesses to give Evidence according to truth, it is the Duty of the Jury to proceed according to Evidence, and 'tis the duty of the Court to give Judgment according to the Verdict. It is the Kings pleasure signified by his Attorney General, to demand Judgment against your Lordship according to this Verdict, and therefore my Lord I shall not delay it with any further circumlocution. The Judgment the Law hath provided, and is the Duty of the Court to give, is,

That you be carried back again, to the place from whence you came, and from thence, be drawn upon an hurdle to the place of Execution, where you shall be hanged up by the Neck, but cut down alive, your Entrails and Privy Members cut from your Body, and burnt in your sight, your Head to be severed from your Body, and your Body Divided into four Parts, and disposed at the Kings pleasure. And the Lord have Mercy upon your Soul.

Mr. Att. Gen. Set up the other now.

Cl. of Cr. Set Captain Walcott to the Barr, Rouse, and Hone.

Which was done and they bid severally to hold up their Hands, which they did; and Captain Walcott being asked what he could say why Judgment of Death should not pass upon him, said,

Cap. Walcott. I have nothing to say, only I have one favour to begg of the Court, whether it be proper to begg it now or no I can't tell.

Mr. Recorder. What is it?

Capt. Walcott. I would beg the favour that the Youth my Son might come and see me, and some of my Friends.

Mr. Recorder. Capt. Richardson does not deny it to any man after he is condemned, that is a piece of Humanity you need not ask, I never knew it denied.

Then Hone was asked what he could say against Judgment.

Hone. I beg the same favour.

Mr. Recorder. Ay, Ay, God forbid. You had best ask for some Divine to come to you.

Then Rouse was asked the same Question.

Rouse. I would speak of the disadvantages I had when I came upon my Tryal. When I was put upon my Tryal you know very well, I begged the favour of some things; one was a Copy of the Indictment, when I saw a person come before me, who in his own Conscience knew was the Author of all these things, I have nothing to say against the Judgment or Verdict, I always had a great Veneration for the Constitutions of the Kingdom, I pray God forgive them that came against me. I wish I had no more weight upon my Legs then I have in my own Conscience. I prayed a Copy of my Indictment. These things unexpectedly came upon my Tryal, that I had not opportunity to speak what I should.

Mr. Recorder. We are content to hear you. But observe, you are to answer the Question that is asked. Why Judgment should not pass upon you. You say you won't speak against the Jury, we must not hear you, nor against the Verdict.

Rouse. I have one word more, and that is, the vast difference between the Indictment and their Oaths; the Indictment was, that such and such words, and discourses, passed the Second of March; the Oaths sworn were, that the words were not spoken then, but the last of June, which was three months difference, but however the Jury have pleased to find it. I must throw my self at his Majesties feet, I have nothing more to say.

Then silence was proclaim'd and Judgement given against Walcott, Hone, and Rouse, in like manner as upon the L. Russel.

FINIS.

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